MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA

REGULAR MEETINGS
MONDAY, JANUARY 28, 2002

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:11 p.m. on Monday, January 28, 2002, with President SerVaas presiding.

Councillor Coonrod introduced Assistant Pastor Terry Hirsch of Holy Cross Lutheran Church, who led the opening prayer. Councillor Coonrod then invited all present to join him in the Pledge of Allegiance to the Flag.

ROLL CALL

President SerVaas instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

> *29 PRESENT: Bainbridge, Black, Borst, Boyd, Bradford, Brents, Cockrum, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Gray, Horseman, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Nytes, Sanders, Schneider, SerVaas, Short, Smith, Soards, Talley, Tilford*

A quorum of twenty-nine members being present, the President called the meeting to order.

INTRODUCTION OF GUESTS AND VISITORS

President SerVaas recognized former At-Large Councillor Toby McClamroch. He also introduced David Caldwell, executive director of Kentuckians for Tax Reform, and said that Louisville recently adopted the UniGov concept and Mr. Caldwell is here to observe this evening. Mr. Caldwell said that he is visiting to see how UniGov works and he believes that competition is beneficial to everyone and hopes that Louisville will grow to compete with Indianapolis in a greater arena. Councillor Coughenour said that recently representatives from Indianapolis visited Louisville to learn from them on some environmental issues, and she is glad to see the reverse happening, as well. Mr. Caldwell said that he wants leaders of both cities to see Interstate 65 as an avenue of ideas. Councillor Massie recognized former At-Large Councillor Carlton Curry. Councillor Conley introduced Center Township Constable Tony Duncan. Councillor Gray

former City Controller Fred Armstrong. Councillor Sanders wished first lady of Indianapolis, Amy Minnick Peterson, a happy birthday.

OFFICIAL COMMUNICATIONS

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, January 28, 2002, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,
s/Beurt SerVaas
President, City-County Council

January 8, 2002

TO PRESIDENT SERVAAS AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* and in the *Indianapolis Star* on Friday, January 11, 2002, a copy of a Notice of Public Hearing on Proposal No. 697, 2001 and Proposal Nos. 5-9, 11-14, and 40, 2002, said hearing to be held on Monday, January 28, 2002, at 7:00 p.m. in the City-County Building.

Respectfully,
s/Suellen Hart
Clerk of the City-County Council

January 10, 2002

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have approved with my signature and delivered this day to the Clerk of the City-County Council, Suellen Hart, the following resolution:

SPECIAL RESOLUTION NO. 1, 2002 - congratulates and welcomes Dr. Bobby Fong, the 20th President of Butler University

Respectfully,
s/Bart Peterson, Mayor

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

APPROVAL OF THE JOURNAL

The President called for additions or corrections to the Journal of January 7, 2002. There being no additions or corrections, the minutes were approved as distributed.

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS

PROPOSAL NO. 54, 2002. The proposal, sponsored by Councillors Gray and Boyd, recognizes retiring Indianapolis Police Department Captain Cephas L. Bandy for his 41 years of police service. Councillor Gray read the proposal and presented Captain Bandy with a copy of the document and a Council pin. Captain Bandy thanked the Council for the recognition. Indianapolis Police Department (IPD) chief Jerry Barker and Department of Public Safety (DPS) director Robert Turner thanked Captain Bandy for his service, his professionalism, and inspiration and said that he will be missed. Councillor Gray moved, seconded by Councillor Boyd, for adoption. Proposal No. 54, 2002 was adopted by a unanimous voice vote.

Proposal No. 54, 2002 was retitled SPECIAL RESOLUTION NO. 2, 2002, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 2, 2002

A SPECIAL RESOLUTION recognizing retiring Indianapolis Police Department Captain Cephas L. Bandy for his 41 years of police service.

WHEREAS, in 1961, the City-County Building was under construction, the Cuban Bay of Pigs invasion was a disaster, "The Twist" song and dance by Chubby Checker was a national sensation, and Cephas L. Bandy was hired by the Indianapolis Police Department at the going salary of $4,600 a year; and

WHEREAS, in less than a dozen years on the force he received promotions to Captain, and during his 41 years on the Department Captain Bandy served in a two page long list of assignments including commander of the crime lab, vehicle theft, public affairs, organized crime, juvenile branch, along with special assignments to the Disciplinary Board, a stint as Assistant Deputy Chief, tours of duty in the west and south districts, and working with the Marion County Prosecutor's Office; and

WHEREAS, he was the captain of a community relations team that earned a Unit Citation from Chief Gallagher 20 years before community policing and relations came into style, and he received a glowing letter of thanks from Marion County Prosecutor Noble Pearcy for successfully investigating a murder case that sent the murderer to prison for life; and

WHEREAS, Captain Bandy has been active in the YMCA, the National Organization of Black Law Enforcement Executives, and perhaps most importantly, in his quiet but effective manner he served as a role model for several generations of young cops; now, therefore:

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

SECTION 1. The Indianapolis City-County Council recognizes the more than four decades of police work by Indianapolis Police Department's Captain Cephas L. Bandy.

SECTION 2. The Council wishes him well in retirement as he has more time to aggressively pursue his boundless enthusiasm for hitting little round balls around golf courses.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 69, 2002. The proposal, sponsored by Councillor Coonrod, recognizes the Marion County Auditor's Office for earning the Government Finance Officers Association's Budget Presentation and Financial Reporting Awards. Councillor Coonrod read the proposal and presented Marty Womacks, County Auditor, with a copy of the document and a Council pin. Ms. Womacks recognized staff members Dan Jones, Terry Nelson, and Steve Dyson, and said that this award is a result of their hard work as well. She thanked the Council for the recognition.

Councillor Coonrod moved, seconded by Councillor McWhirter, for adoption. Proposal No. 69, 2002 was adopted by a unanimous voice vote.

Proposal No. 69, 2002 was retitled SPECIAL RESOLUTION NO. 3, 2002, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 3, 2002

A SPECIAL RESOLUTION recognizing the Marion County Auditor's Office for earning the Government Finance Officers Association's Budget Presentation and Financial Reporting Awards.

WHEREAS, the 15,000-member Government Finance Officers Association, or GFOA, is a professional association of government finance people from local governments, schools, libraries, government employee retirement systems, law and accounting firms and financial institutions; and

WHEREAS, a part of the association's professional development program is a series of awards that demonstrate outstanding financial management; and

WHEREAS, of the fewer than 900 governmental units from throughout the USA and Canada that won the Distinguished Budget Presentation Award, the Marion County Auditor's Office was the only Indiana county that earned the award—and received it for the sixth consecutive year; and

WHEREAS, since 1945, the Certificate of Achievement for Excellence in Financial Reporting Award is designed to recognize high quality governmental reporting, and is the information that the investment community looks at closely; and

WHEREAS, again, the Marion County Auditor's Office was one of only 36 state and local units of government in Indiana to earn this award from the Government Finance Officers Association; now, therefore

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

SECTION 1. The Indianapolis City-County Council recognizes and congratulates Marion County Auditor Martha "Marty" Womacks and her staff for earning both the Budget Presentation and the Financial Reporting Awards from the Government Finance Officers Association.

SECTION 2. It is the Legislative and Executive Branches of local government that commit the allocations of taxes and spending, but in the meantime it is reassuring for the taxpayers to know that the Marion County Auditor, as well as her City Controller counterpart, have been nationally recognized as being good stewards of the budget accounting and reporting process of local government.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

President SerVaas asked for consent to vote on Proposal Nos. 612, 712, 715-718, 721-723, 725, 732-736, and 738-743, 2001 and Proposal Nos. 3, 4, and 15-18, 2002 together, as they are all board and director appointments with unanimous recommendations.

Councillor Smith moved, seconded by Councillor Schneider, to return Proposal No. 718, 2001 to the Metropolitan Development Committee for further review due to some details that have arisen. PROPOSAL NO. 718, 2001. The proposal, sponsored by Councillor Borst, reappoints Steven M. Badger to the Metropolitan Board of Zoning Appeals Division II. Proposal No. 718, 2001 was returned to committee by a unanimous voice vote.

Councillor Bradford moved, seconded by Councillor Coughenour, to amend Proposal No. 712, 2001 for a term ending 2003 instead of 2004. He said that this appointment is to replace an existing term, which ends 2003, and this is therefore simply a technical amendment. Proposal No. 712, 2001 was amended by a unanimous voice vote.

PROPOSAL NO. 612, 2001. The proposal, sponsored by Councillors Dowden and Moriarty Adams, appoints Charles Neill to the Citizens Police Complaint Board. PROPOSAL NO. 712, 2001. The proposal, sponsored by Councillor Bradford, appoints Kristina Holden to the Community Centers of Indianapolis Board. PROPOSAL NO. 715, 2001. The proposal, sponsored by Councillor Borst, reappoints Walter Quesenberry to the Lawrence Economic Development Commission. PROPOSAL NO. 716, 2001. The proposal, sponsored by Councillor Borst, reappoints Joanna Walker to the Metropolitan Board of Zoning Appeals Division I. PROPOSAL NO. 717, 2001. The proposal, sponsored by Councillor Borst, reappoints Alan Retherford to the Metropolitan Board of Zoning Appeals Division I. PROPOSAL NO. 721, 2001. The proposal, sponsored by Councillor Borst, reappoints C. Eugene Hendricks to the Metropolitan Development Commission. PROPOSAL NO. 722, 2001. The proposal, sponsored by Councillor Borst, reappoints Randolph L. Snyder to the Metropolitan Development Commission. PROPOSAL NO. 723, 2001. The proposal, sponsored by Councillor Borst, reappoints Brian Murphy to the Metropolitan Development Commission. PROPOSAL NO. 725, 2001. The proposal, sponsored by Councillor Tilford, reappoints David Scott to the Indianapolis Public Transportation Corporation. PROPOSAL NO. 732, 2001. The proposal, sponsored by Councillor Dowden, reappoints Ken Giffin to the Board of Public Safety. PROPOSAL NO. 733, 2001. The proposal, sponsored by Councillor Dowden, reappoints William Schneider to the Board of Public Safety. PROPOSAL NO. 734, 2001. The proposal, sponsored by Councillor Dowden, reappoints Susie Davie to the Marion County Community Corrections Advisory Board. PROPOSAL NO. 735, 2001. The proposal, sponsored by Councillor Dowden, reappoints Leslie Duvall to the Marion County Community Corrections Advisory Board. PROPOSAL NO. 736, 2001. The proposal, sponsored by Councillor Dowden, reappoints Mary Stewart to the Marion County Community Corrections Advisory Board. PROPOSAL NO. 738, 2001. The proposal, sponsored by Councillor Dowden, reappoints Rondle W. Brewer to the Marion County Community Corrections Advisory Board. PROPOSAL NO. 739, 2001. The proposal, sponsored by Councillor Dowden, reappoints Leonard Simpson to the Marion County Community Corrections Advisory Board. PROPOSAL NO. 740, 2001. The proposal, sponsored by Councillor Coughenour, reappoints Tony Buford to the Board of Public Works. PROPOSAL NO. 741, 2001. The proposal, sponsored by Councillor Coughenour, reappoints Arno W. Haupt to the Board of Public Works. PROPOSAL NO. 742, 2001. The proposal, sponsored by Councillor Coughenour, reappoints Kenneth W. Hughes to the Board of Public Works. PROPOSAL NO. 743, 2001. The proposal, sponsored by Councillor Massie, reappoints Robert Spear to the Alcoholic Beverage Board of Marion County. PROPOSAL NO. 3, 2002. The proposal, sponsored by Councillor Boyd, approves the Mayor's appointment of Joseph L. B. Wynns as the Director of the Department of Parks and Recreation. PROPOSAL NO. 4, 2002. The proposal, sponsored by Councillors Boyd and Talley, approves the Mayor's appointment of Robert B. Turner as the Director of the Department of Public Safety. PROPOSAL NO. 15, 2002. The proposal, sponsored by Councillor Boyd, approves the Mayor's appointment of Michael B. O'Connor as the Chief Deputy Mayor. PROPOSAL NO. 16, 2002. The proposal, sponsored by Councillor Boyd, approves the Mayor's appointment of Jane Henegar as the Deputy Mayor for Policy. PROPOSAL NO. 17, 2002. The proposal, sponsored by Councillor Boyd, approves the Mayor's appointment of Carolyn M. Coleman as the Deputy Mayor for Neighborhoods. PROPOSAL NO. 18, 2002. The proposal, sponsored by Councillor Boyd, approves the Mayor's appointment of Barbara A. Lawrence as the Director of the Department of Public Works. Councillor Borst moved, seconded by Councillor Dowden for adoption.

Councillor Bradford said that he would like to be noted as an abstention on Proposal No. 743, 2001 due to a conflict of interest. Councillor Talley asked that this proposal be voted on separately to reflect that abstention.

Proposal No. 712, 2001, as amended; Proposal Nos. 612, 715-717, 721-723, 725, 732-736, and 738-742, 2001; and Proposal Nos. 3, 4, and 15-18, 2002 were adopted by a unanimous voice vote.

Proposal No. 612, 2001 was retitled COUNCIL RESOLUTION NO. 5, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 5, 2002

A COUNCIL RESOLUTION appointing Charles Neill to the Citizens Police Complaint Board.

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

SECTION 1. As a member of the Citizens Police Complaint Board, the Council appoints:

Charles Neill

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 712, 2001, as amended, was retitled COUNCIL RESOLUTION NO. 6, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 6, 2002

A COUNCIL RESOLUTION appointing Kristina Holden to the Community Centers of Indianapolis Board.

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

SECTION 1. As a member of the Community Centers of Indianapolis Board, the Council appoints:

Kristina Holden

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2003. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 715, 2001 was retitled COUNCIL RESOLUTION NO. 7, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 7, 2002

A COUNCIL RESOLUTION reappointing Walter Quesenberry to the Lawrence Economic Development Commission.

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

SECTION 1. As a member of the Lawrence Economic Development Commission, the Council reappoints:

Walter Quesenberry

SECTION 2. The appointment made by this resolution is for a term ending February 01, 2004. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 716, 2001 was retitled COUNCIL RESOLUTION NO. 8, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 8, 2002

A COUNCIL RESOLUTION reappointing Joanna Walker to the Metropolitan Board of Zoning Appeals Division I.

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

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals Division I, the Council reappoints:

Joanna Walker

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 717, 2001 was retitled COUNCIL RESOLUTION NO. 9, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 9, 2002

A COUNCIL RESOLUTION reappointing Alan Retherford to the Metropolitan Board of Zoning Appeals Division I.

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

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals Division I, the Council reappoints:

Alan Retherford

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 721, 2001 was retitled COUNCIL RESOLUTION NO. 10, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 10, 2002

A COUNCIL RESOLUTION reappointing C. Eugene Hendricks to the Metropolitan Development Commission.

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

SECTION 1. As a member of the Metropolitan Development Commission, the Council reappoints:

C. Eugene Hendricks

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 722, 2001 was retitled COUNCIL RESOLUTION NO. 11, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 11, 2002

A COUNCIL RESOLUTION reappointing Randolph L. Snyder to the Metropolitan Development Commission.

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

SECTION 1. As a member of the Metropolitan Development Commission, the Council reappoints:

Randolph L. Snyder

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 723, 2001 was retitled COUNCIL RESOLUTION NO. 12, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 12, 2002

A COUNCIL RESOLUTION reappointing Brian Murphy to the Metropolitan Development Commission.

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

SECTION 1. As a member of the Metropolitan Development Commission, the Council reappoints:

Brian Murphy

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 725, 2001 was retitled COUNCIL RESOLUTION NO. 13, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 13, 2002

A COUNCIL RESOLUTION reappointing David Scott to the Indianapolis Public Transportation Corporation.

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

SECTION 1. As a member of the Indianapolis Public Transportation Corporation, the Council reappoints:

David Scott

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2005. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 732, 2001 was retitled COUNCIL RESOLUTION NO. 14, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 14, 2002

A COUNCIL RESOLUTION reappointing Ken Giffin to the Board of Public Safety.

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

SECTION 1. As a member of the Board of Public Safety, the Council reappoints:

Ken Giffin

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 733, 2001 was retitled COUNCIL RESOLUTION NO. 15, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 15, 2002

A COUNCIL RESOLUTION reappointing William Schneider to the Board of Public Safety.

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

SECTION 1. As a member of the Board of Public Safety, the Council reappoints:

William Schneider

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 734, 2001 was retitled COUNCIL RESOLUTION NO. 16, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 16, 2002

A COUNCIL RESOLUTION reappointing Susie Davie to the Marion County Community Corrections Advisory Board.

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

SECTION 1. As a member of the Marion County Community Corrections Advisory Board, the Council reappoints:

Susie Davie

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2005. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 735, 2001 was retitled COUNCIL RESOLUTION NO. 17, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 17, 2002

A COUNCIL RESOLUTION reappointing Leslie Duvall to the Marion County Community Corrections Advisory Board.

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

SECTION 1. As a member of the Marion County Community Corrections Advisory Board, the Council reappoints:

Leslie Duvall

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2005. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 736, 2001 was retitled COUNCIL RESOLUTION NO. 18, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 18, 2002

A COUNCIL RESOLUTION reappointing Mary Stewart to the Marion County Community Corrections Advisory Board.

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

SECTION 1. As a member of the Marion County Community Corrections Advisory Board, the Council reappoints:

Mary Stewart

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2005. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 738, 2001 was retitled COUNCIL RESOLUTION NO. 19, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 19, 2002

A COUNCIL RESOLUTION reappointing Rondle W. Brewer to the Marion County Community Corrections Advisory Board.

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

SECTION 1. As a member of the Marion County Community Corrections Advisory Board, the Council reappoints:

Rondle W. Brewer

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2005. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 739, 2001 was retitled COUNCIL RESOLUTION NO. 20, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 20, 2002

A COUNCIL RESOLUTION reappointing Leonard Simpson to the Marion County Community Corrections Advisory Board.

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

SECTION 1. As a member of the Marion County Community Corrections Advisory Board, the Council reappoints:

Leonard Simpson

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2005. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 740, 2001 was retitled COUNCIL RESOLUTION NO. 21, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 21, 2002

A COUNCIL RESOLUTION reappointing Tony Buford to the Board of Public Works.

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

SECTION 1. As a member of the Board of Public Works, the Council reappoints:

Tony Buford

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 741, 2001 was retitled COUNCIL RESOLUTION NO. 22, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 22, 2002

A COUNCIL RESOLUTION reappointing Arno W. Haupt to the Board of Public Works.

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

SECTION 1. As a member of the Board of Public Works, the Council reappoints:

Arno W. Haupt

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 742, 2001 was retitled COUNCIL RESOLUTION NO. 23, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 23, 2002

A COUNCIL RESOLUTION reappointing Kenneth W. Hughes to the Board of Public Works.

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

SECTION 1. As a member of the Board of Public Works, the Council reappoints:

Kenneth W. Hughes

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 3, 2002 was retitled COUNCIL RESOLUTION NO. 24, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 24, 2002

A COUNCIL RESOLUTION approving the Mayor's appointment of Joseph L. B. Wynns as the Director of the Department of Parks and Recreation for a term ending December 31, 2002.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-3 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Director of the Department of Parks and Recreation is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Joseph L. B. Wynns to serve as Director of the Department of Parks and Recreation at his pleasure for a term ending December 31, 2002; now, therefore:

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

SECTION 1. Joseph L. B. Wynns is approved and confirmed by the City-County Council to serve as the Director of the Department of Parks and Recreation for a term ending December 31, 2002.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 4, 2002 was retitled COUNCIL RESOLUTION NO. 25, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 25, 2002

A COUNCIL RESOLUTION approving the Mayor's appointment of Robert B. Turner as the Director of the Department of Public Safety for a term ending December 31, 2002.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-3 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Director of the Department of Public Safety is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Robert B. Turner to serve as Director of the Department of Public Safety at his pleasure for a term ending December 31, 2002; now, therefore:

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

SECTION 1. Robert B. Turner is approved and confirmed by the City-County Council to serve as the Director of the Department of Public Safety for a term ending December 31, 2002.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 15, 2002 was retitled COUNCIL RESOLUTION NO. 26, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 26, 2002

A COUNCIL RESOLUTION approving the Mayor's appointment of Michael B. O'Connor as the Chief Deputy Mayor for a term ending December 31, 2002.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-4 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Chief Deputy Mayor is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Michael B. O'Connor to serve as Chief Deputy Mayor at his pleasure for a term ending December 31, 2002; now, therefore:

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

SECTION 1. Michael B. O'Connor is approved and confirmed by the City-County Council to serve as Chief Deputy Mayor for a term ending December 31, 2002.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 16, 2002 was retitled COUNCIL RESOLUTION NO. 27, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 27, 2002

A COUNCIL RESOLUTION approving the Mayor's appointment of Jane Henegar as the Deputy Mayor for Policy for a term ending December 31, 2002.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-4 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Deputy Mayor for Policy is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Jane Henegar to serve as Deputy Mayor for Policy at his pleasure for a term ending December 31, 2002; now, therefore:

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

SECTION 1. Jane Henegar is approved and confirmed by the City-County Council to serve as Deputy Mayor for Policy for a term ending December 31, 2002.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 17, 2002 was retitled COUNCIL RESOLUTION NO. 28, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 28, 2002

A COUNCIL RESOLUTION approving the Mayor's appointment of Carolyn M. Coleman as the Deputy Mayor for Neighborhoods for a term ending December 31, 2002.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-4 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Deputy Mayor for Neighborhoods is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Carolyn M. Coleman to serve as Deputy Mayor for Neighborhoods at his pleasure for a term ending December 31, 2002; now, therefore:

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

SECTION 1. Carolyn M. Coleman is approved and confirmed by the City-County Council to serve as Deputy Mayor for Neighborhoods for a term ending December 31, 2002.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 18, 2002 was retitled COUNCIL RESOLUTION NO. 29, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 29, 2002

A COUNCIL RESOLUTION approving the Mayor's appointment of Barbara A. Lawrence as the Director of the Department of Public Works for a term ending December 31, 2002.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-3 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Director of the Department of Public Works is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Barbara A. Lawrence to serve as Director of the Department of Public Works at his pleasure for a term ending December 31, 2002; now, therefore:

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

SECTION 1. Barbara A. Lawrence is approved and confirmed by the City-County Council to serve as the Director of the Department of Public Works for a term ending December 31, 2002.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 743, 2001. The proposal, sponsored by Councillor Massie, reappoints Robert Spear to the Alcoholic Beverage Board of Marion County. By a 7-0 vote, the Rules and Public Policy Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Borst moved, seconded by Councillor Massie, for adoption. Proposal No. 743, 2001 was adopted by a unanimous voice vote, with Councillor Bradford noted as an abstention.

Proposal No. 743, 2001 was retitled COUNCIL RESOLUTION NO. 30, 2002, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 30, 2002

A COUNCIL RESOLUTION reappointing Robert Spear to the Alcoholic Beverage Board of Marion County.

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

SECTION 1. As a member of the Alcoholic Beverage Board of Marion County, the Council reappoints:

Robert Spear

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 42, 2002. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which confirms the Marion County Public Defender Board's nomination of David Cook as Marion County Chief Public Defender"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 43, 2002. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of $10,091 in the 2002 Budget of the County Sheriff (State and Federal Grants Fund) for the reimbursement of one officer's overtime who is assigned to the Indiana Joint Terrorism Task Force, funded by a grant from the FBI"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 44, 2002. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of $200,000 in the 2002 Budgets of the County Auditor and the Prosecuting Attorney (State and Federal Grants Fund) to continue funding the Community Court, funded by a federal grant (U.S. Department of Justice)"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 45, 2002. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of $28,200 in the 2002 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to purchase two electronic message trailers to be utilized by local law enforcement agencies when conducting seat belt enforcement zones, funded by a grant from the Governor's Council on Impaired & Dangerous Driving and the National Highway Traffic Safety Administration"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 46, 2002. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of $113,263 in the 2002 Budgets of the County Auditor and Community Corrections (State and Federal Grants Fund) for the funding of a mental health component and a conflict resolution services coordinator position, funded by Department of Corrections grants"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 47, 2002. Introduced by Councillor Coonrod. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a traffic signal at 56th Street and Mitthoefer Road (District 5)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 48, 2002. Introduced by Councillor Brents. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at 18th Street and Medford Avenue (District 16)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 49, 2002. Introduced by Councillor Short. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes parking restrictions on Prospect Street between Leonard Street and St. Patrick Street (District 21)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 50, 2002. Introduced by Councillor Talley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes parking restrictions on Montery Road between Marseille Road and Balboa Drive (District 14)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 51, 2002. Introduced by Councillor Massie. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes parking restrictions on Windermire Street from Bowman Avenue to Otterbein Avenue (District 20)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 53, 2002. Introduced by Councillor Tilford. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which reappoints Philip Borst to the Capital Improvements Board of Managers"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 55, 2002. Introduced by Councillor Borst. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which permits multiyear vaccination of cats and dogs"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 56, 2002. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which reappoints Bruce Laetsch to the Citizens Police Complaint Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 57, 2002. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints David J. Certo to the Citizens Police Complaint Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

SPECIAL ORDERS - PRIORITY BUSINESS

Councillor Bainbridge made the following motion:

> Mr. President:
>
> I move that Proposal No. 58, 2002 (Rezoning Case 2001-ZON-085) be scheduled for a hearing before this Council at its next regular meeting on February 11, 2002, at 7:00 p.m. and that the Clerk read the announcement of such hearing and enter same in the minutes of this meeting.

Councillor Smith seconded the motion, and Proposal No. 58, 2002 was scheduled for a public hearing on February 11, 2002 by a unanimous voice vote and is identified as follows:

> 2001-ZON-085
> 4665 WEST 16TH STREET (approximate address), TOWN OF SPEEDWAY.
> WAYNE TOWNSHIP, COUNCILMANIC DISTRICT #8
> CLASSIC MOTOR INN, INC., by Cameron F. Clark, requests a rezoning of 3.339 acres, being in the D-7 (FW) (FF) District, to the C-4 (FW) (FF) classification to legally establish a motel.

PROPOSAL NO. 59, 2002, PROPOSAL NOS. 60-62, 2002, and PROPOSAL NOS. 63-68, 2002. Introduced by Councillor Smith. Proposal No. 59, 2002, Proposal Nos. 60-62, 2002, and Proposal Nos. 63-68, 2002 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on January 23, 2002. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 7-16, 2002, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

> REZONING ORDINANCE NO. 7, 2002.
> 2001-ZON-132
> 2936, 2938, and 2940 NORTH KEYSTONE AVENUE (approximate address), INDIANAPOLIS.
> CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 10
> BICYCLE ACTION PROJECT requests a rezoning of 0.364 acre, being in the D-5 District, to the SU-7 classification to provide for a not-for-profit institution.

REZONING ORDINANCE NO. 8, 2002.
2001-ZON-133
8404 NORTH MICHIGAN ROAD (approximate address), INDIANAPOLIS.
PIKE TOWNSHIP, COUNCILMANIC DISTRICT # 2
ALDI (INDIANA) L.P. requests a rezoning of 2.69 acres, from C-S to C-S, to provide for a 23,183 square-foot retail/commercial center.

REZONING ORDINANCE NO. 9, 2002.
2001-ZON-145
10030 PENDLETON PIKE (approximate address), INDIANAPOLIS.
LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 5
GEORGE AND VOULA BEKAS, by Michael Rabinowitch, request a rezoning of 8.116 acres, being in the D-6, D-A, and I-4-S Districts, to the C-4 classification to provide for commercial development.

REZONING ORDINANCE NO. 10, 2002.
2001-ZON-154
8525 EAST TROY AVENUE (approximate address), INDIANAPOLIS.
FRANKLIN TOWNSHIP, COUNCILMANIC DISTRICT # 23.
CIL, INC., by David A. Retherford, requests a rezoning of 30.427 acres, being in the C-S District, to the C-S classification to provide for auctioneering services, including the washing, sale, and repair of motor vehicles and C-5 commercial uses except recovery services, go-cart raceways, flea-markets, drive-in theaters, boat and canoe rental, fishing lake operation, and railroads.

REZONING ORDINANCE NO. 11, 2002.
2001-ZON-149
6509 EAST 75TH STREET (approximate address), INDIANAPOLIS.
LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 4
INSIGHT ENGINEERING, INC. requests a rezoning of 5.193 acres, being in the C-S District, to the C-S classification to provide for C-4, or community regional commercial uses, with proposed commitments that would terminate previous commitments associated with 99-Z-134 (petition 99-Z-134 permitted a miniature-golf establishment at this location).

REZONING ORDINANCE NO. 12, 2002.
2001-ZON-157
4901 EAST 31ST STREET (approximate address), INDIANAPOLIS.
CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 10
JEFFREY L. THOMAS requests a rezoning of 1.925 acres, being in the D-5 District, to the SU-1 classification provide for religious uses.

REZONING ORDINANCE NO. 13, 2002.
2001-ZON-158
845 WEST 30TH STREET (approximate address), INDIANAPOLIS.
CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 9
UNITED NORTHWEST AREA DEVELOPMENT CORPORATION, by Daniel T. Kozlowski, requests a rezoning of 0.1 acre, being in the C-3 District, to the D-5 classification to legally establish a single-family dwelling.

REZONING ORDINANCE NO. 14, 2002.
2001-ZON-859
5103 EAST WASHINGTON STREET (approximate address), INDIANAPOLIS.
WARREN TOWNSHIP, COUNCILMANIC DISTRICT # 13
SPEEDWAY SUPERAMERICA, LLC, by Philip A. Nicely, requests a rezoning of 0.91 acre, being in the D-8 and C-3 Districts, to the C-3 classification to provide for the construction of a gasoline station/convenience store.

REZONING ORDINANCE NO. 15, 2002.
2001-ZON-860
4555 MARCY LANE (approximate address), INDIANAPOLIS.
WASHINGTON TOWNSHIP, COUNCILMANIC DISTRICT #6

ENGLISH VILLAGE ASSOCIATES, by David Kingen, requests a rezoning of 23.7 acres, being in the D-5 District, to the D-7 classification to legally establish 277 multi-family units, or 11.68 units per acre.

REZONING ORDINANCE NO. 16, 2002.
2001-ZON-862
4555 MARCY LANE (approximate address), INDIANAPOLIS.
WASHINGTON TOWNSHIP, COUNCILMANIC DISTRICT #6
ENGLISH VILLAGE ASSOCIATES, by David Kingen, requests a rezoning of 0.66 acre, being in the D-5 District, to the C-3 classification to provide for neighborhood commercial uses.

PROPOSAL NO. 41, 2002. Councillor Smith reported that the Metropolitan Development Committee heard Proposal No. 41, 2002 on January 14, 2002. The proposal is an inducement resolution for Pleasant Run Apartments not to exceed $13,000,000 which consists of the acquisition and rehabilitation of a 252-unit apartment complex on an approximately 16 acre parcel of land located at 1366 North Arlington Ave. (District 12). By a 4-2 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Smith moved, seconded by Councillor Coughenour, for adoption.

Councillor Moriarty Adams said that she will be abstaining from voting on this proposal to avoid the appearance of a conflict of interest.

Proposal No. 41, 2002 was adopted on the following roll call vote; viz:

27 YEAS: Bainbridge, Black, Borst, Boyd, Bradford, Brents, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Gray, Horseman, Knox, Langsford, Massie, McWhirter, Nytes, Sanders, Schneider, SerVaas, Short, Smith, Soards, Talley, Tilford
0 NAYS:
2 NOT VOTING: Cockrum, Moriarty Adams

Proposal No. 41, 2002 was retitled SPECIAL RESOLUTION NO. 4, 2002, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 4, 2002

A SPECIAL RESOLUTION approving and authorizing certain actions and proceedings with respect to certain proposed economic development bonds.

WHEREAS, the City of Indianapolis, Indiana (the "Issuer") is authorized by IC 36-7-11.9 and IC 36-7-12 (collectively, the "Act") to issue revenue bonds for the financing of economic development facilities, the funds from said financing to be used for the acquisition, renovation, construction, installation and equipping of said facilities, and said facilities to be either sold or leased to a company or the proceeds of the revenue bond issue may be loaned to the company and said facilities directly owned by the Company; and

WHEREAS, Finlay Interests 7, Ltd., a Florida limited partnership (the "Applicant"), has advised the Indianapolis Economic Development Commission (the "Commission") and the Issuer that it proposes that the Issuer either acquire certain economic development facilities and sell or lease the same to Applicant or loan the proceeds of an economic development financing to the Applicant for the same, said economic development facilities consist of the acquisition and renovation of the existing 252-unit Pleasant Run Apartments located on an approximately 16 acre parcel of land at 1366 North Arlington Avenue, Indianapolis, Indiana (the "Project"); and

WHEREAS, the diversification of industry and the creation and retention of opportunities for gainful employment and the creation of business opportunities to be achieved by the acquisition and renovation of the Project will serve a public purpose and be of benefit to the health or general welfare of the Issuer and its citizens; and

WHEREAS, the acquisition and renovation of the Project will not have an adverse competitive effect on similar facilities already constructed or operating within the jurisdiction of the Issuer; now, therefore:

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

SECTION 1. It finds, determines, ratifies and confirms that the diversification of industry and the retention of opportunities for gainful employment within the jurisdiction of the Issuer, is desirable, serves a public purpose, and is of benefit to the health or general welfare of the Issuer; and that it is in the public interest that this Issuer take such action as it lawfully may to encourage the diversification of industry, the creation of business opportunities, and the creation and retention of opportunities for gainful employment within the jurisdiction of the Issuer.

SECTION 2. It further finds, determines, ratifies and confirms that the issuance and sale of revenue bonds of the Issuer in an amount not to exceed $13,000,000 under the Act to be privately placed or publicly offered if permitted under current Commission policy for the acquisition and renovation of the Project and the sale or leasing of the Project to the Applicant or the loan of the proceeds of the revenue bonds to the Applicant for the acquisition and renovation of the Project will serve the public purposes referred to above in accordance with the Act.

SECTION 3. In order to induce the Applicant to proceed with the acquisition and renovation of the Project, this Council hereby finds, determines, ratifies and confirms that (i) it will take or cause to be taken such actions pursuant to the Act as may be required to implement the aforesaid financing, or as it may deem appropriate in pursuance thereof; provided (a) that all of the foregoing shall be mutually acceptable to the Issuer and the Applicant and (b) subject to the further caveat that this inducement resolution expires on August 31, 2002, unless such bonds have been issued or an Ordinance authorizing the issuance of such bonds has been adopted by this Council prior to the aforesaid date or unless, upon a showing of good cause by the Applicant, the Issuer, by official action, extends the term of this inducement resolution; and (ii) it will adopt such ordinances and resolutions and authorize the execution and delivery of such instruments and the taking of such action as may be necessary and advisable for the authorization, issuance and sale of said economic development revenue bonds, provided that at the time of the proposed issuance of such bonds (a) this inducement resolution is still in effect and (b) if applicable, the aggregate amount of private activity bonds previously issued during that calendar year will not exceed the private activity bond limit for such calendar year, it being understood that the Issuer, by taking this action, is not making any representation nor any assurances that (1) any such allocable limit will be available, because inducement resolutions in the aggregate amount in excess of the private activity bond limit may, and in all probability will, be adopted; (2) the proposed Project will have no priority over other projects which have applied for such private activity bonds and have received inducement resolutions; and (3) no portion of such activity bond limit has been guaranteed for the proposed Project; and (iii) it will use its best efforts at the request of the Applicant to authorize the issuance of additional bonds for refunding and refinancing the outstanding principal amount of the bonds, for completion of the Project and for additions to the Project, including the costs of issuance (providing that the financing of such addition or additions to the Project is found to have a public purpose [as defined in the Act] at the time of authorization of such additional bonds), and that the aforementioned purposes comply with the provisions of the Act.

SECTION 4. All costs of the Project incurred after the date which is sixty (60) days prior to the adoption of this resolution, including reimbursement or repayment to the Applicant of monies expended by the Applicant for application fees, planning, engineering, underwriting expenses, attorney and bond counsel fees, and acquisition and renovation of the Project will be permitted to be included as part of the bond issue to finance said Project, and the Issuer will thereafter sell the Project to the Applicant or loan the proceeds of the revenue bonds to the Applicant for the Project. Also certain indirect expenses incurred prior to such date will be permitted to be included as part of the bond issue to finance the Project in accordance with the Final Regulations (T 8476) on Arbitrage Restrictions on Tax-Exempt Bonds in particular Section 1.150-2.

SECTION 5. This Council recognizes that the Applicant intends to utilize Low Income Housing Tax Credits, if available, pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, or any successor section thereof in connection with the financing of the Project with tax-exempt bonds.

SECTION 6. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - PUBLIC HEARING

PROPOSAL NO. 697, 2001. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 697, 2001 on January 16, 2002. The proposal, sponsored

by Councillors Dowden, Moriarty Adams, and Talley, approves the preliminary determination for Marion County to amend its lease with Building Authority in connection with its financing of improvements to a portion of the structures and improvements located at 730 East Washington Street and 752 East Market Street. By a 7-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Douglas said that he was not able to support the proposal in committee and will not support it this evening. While he realizes that the overcrowding of inmates is a critical issue and the judge's mandate needs to be addressed, he is concerned about how this solution will be paid for. He said that he believes the financing needs to be worked out before moving forward.

Councillor Nytes said that, as the Councillor in whose district this lease is being proposed, she would like to present some comments regarding this proposal following public input.

President SerVaas called for public testimony at 7:52 p.m.

Mark Easley, president of the Cole-Noble Commercial Arts District, which is the neighborhood association to the west of this building, said that he understands the need to address the judge's mandate, but there is a problem with this facility. He said that this particular building has no off-street parking available, and there are a great number of social service agencies within a two-block radius of this building. He said that he is in favor of the new program and what will be happening inside this building, but his concern is the impact it will have on their neighborhood. Marion County arrests 140 people a day, and 70 to 80 of those arrestees will be released into this immediate neighborhood. He said that there is not sufficient parking, and the neighborhood group would like some written commitments regarding the promise not to locate additional services, such as methadone clinics and bail bonding, in the building.

Michael Moriarty, Holy Cross-Westminster Neighborhood Association, which is the neighborhood located east of this building, said that he has serious concerns about the unavailability of parking, and possible release of arrestees directly into their neighborhood.

Julie Priest, business owner in the Cole-Noble Commercial Arts District, said that she shares concerns about parking, and feels that people may be wandering into their neighborhood asking to use phones and using parking meant for businesses. She said that she believes these concerns need to be further addressed before moving forward with this project.

John Burns, business owner in the vicinity of this property, reiterated that the parking needs to be addressed before moving forward with the project. He said that the neighborhood is already saturated with this type of facility, and he would prefer it be located somewhere else. He said in order to move forward, a parking garage would need to be built, which would further increase the cost.

Councillor Nytes said that the project represented in this proposal is only one of a number of solutions that the consultants recommended 19 months ago. Very little action was taken on the other solutions offered at that time, even though many of the other solutions involved procedural changes rather than borrowing money and remodeling buildings. These procedural changes are so fundamental that the City should be embarrassed to admit they have not already implemented them. She said that the impact of this project on the neighborhood she represents and the full cost and debt to taxpayers is not yet clear. She said that more work and more public input is needed on this project and she moved, seconded by Councillor Sanders, to table Proposal No. 697, 2001 to allow for further discussion on the implications of this project.

Councillor Horseman said that there has been no public discussion about how this project will be paid for and commitment of public resources without discussing funding is irresponsible government. She added that there may be a compromise that can be worked out with the neighbors, but sufficient time has not been given to do so. She said that this project is represented as urgent with only 60 days left before the judge begins fining the City. She said that there will be a hearing in April, and she believes the judge will weigh what is being done and grant an extension if needed.

Councillor Gibson said that other options have not been considered, in particular, how judges determine bail allocations. He said that the government seems to spend more and more money on incarceration instead of on programs that will help keep people out of jail. He said that the County is already in debt to the Boys School for the cost of keeping juveniles in jail, and he would rather the money be spent on opportunities to keep people out of jail. He said the proposal needs further dialogue.

Councillor Conley said that he believes a solution needs to be found, but further discussion is warranted, and he believes there is time to reach compromises.

Councillor Gray said that the district Councillor has a better grasp of the needs of the people in her particular community, and he supports her motion.

Councillor Borst said that he has been in meetings regarding this issue throughout this process, and this project actually will keep people out of jail, as Councillor Gibson has advocated. He said that the average stay of an arrestee will be cut down from three days to less than a day with this new process. He said that many procedural changes have already taken place to try and address this problem, and they have not been sufficient. He explained that the arresting process has gone from 244 steps to 75 steps, and the process and new facility will eventually save money down the road, and keep people out of jail who really do not need to be in jail. He said that he sympathizes with the neighbors, but he does not believe people will be focusing on this neighborhood and will be released toward Washington Street. He said that arrestees will know when they will be released and will be able to make phone calls for rides from the facility and will not be released in large groups. He said that he believes DPS will work with the neighbors to address their concerns, and he urged the Council to pass the proposal this evening and move forward.

Councillor Talley said that he agrees with Councillor Borst and said that he was a part of the task force and several locations were considered. He said that a lot of time and effort has gone into this issue and a great deal of public discussion has taken place. He said that he believes this is the best location, and he supports the proposal.

Councillor Moriarty Adams said that she has worked on several jail review processes over the years, and she believes the efficiencies that will be gained by adding this processing center will address the federal mandate to reduce inmate population. She said that the working groups have been working on this very serious issue for many months, and they will continue to work on this issue and resolve neighborhood concerns. She said that she believes the Council needs to move forward, and adding a parking garage is too expensive at this time. She added that she believes the parking issues can be worked out fairly easily.

Councillor Schneider said that he is also concerned about how the City will pay for this project, as well as he is concerned about how the City pays for everything. However, public safety is by far the most important issue on people's minds and is the most legitimate function of local

government. He said that a lot of time has been invested in this plan and he believes it is a priority.

Councillor Massie said that while there is a concern about how the City will pay for this project, there is also a concern that the City will be under a court-imposed fine that is cumulative if they do not address the problem. He said that the City has had success in the past using a task force or working group to address public safety concerns. He said that the City should take definitive steps to avoid the penalty and trust a process that has served them well to answer critical funding issues. He added that the working group has been working with the neighbors, and at the onset, neighbors were opposed to a parking garage. He said that he believes a compromise can be reached with the neighbors on the parking issue as the project moves forward.

Councillor Sanders said that she knows negotiations have gone on for several months, and this location is a sound one, but she believes some of the commitments need to be in writing before moving forward. She said that she does not believe postponing the proposal for a few weeks for further discussion will hinder the project in any way.

Councillor Coughenour said that extra parking for staff has been identified and she believes the proposal could be passed along with the encouragement of asking the working group to resolve the problems expressed here this evening.

Councillor Dowden said that the task force has worked for many months and has given this issue a lot of consideration with several public meetings and financial people involved throughout the entire process. He said that no permanent financing plan has yet been reached, but financial people have been involved from the beginning, and the working group is committed to addressing issues that have been raised this evening.

Councillor Nytes said that a lot of work has been spent on the re-design of the process and the internal building changes, but the impact on the external environment was not discussed. She added that all she has seen is a cash flow plan, but there has been no discussion regarding how this borrowing will be paid back. She added that the plan includes additional jail beds on the upper floors of this building and, therefore, it will not eliminate the need for more jail beds. She said that this may be a good step to improve the process, but feels more analysis is still needed. She said that the intent of her motion is to initiate further discussion, and she withdrew her motion to table, and moved to return the proposal to committee for further review. Councillor Sanders withdrew her second on the motion to table and seconded the motion to return the proposal to committee.

The motion to return Proposal No. 697, 2001 to committee failed on the following roll call vote; viz:

> *14 YEAS: Black, Boyd, Brents, Conley, Coughenour, Douglas, Gibson, Gray, Horseman, Knox, Nytes, Sanders, Short, Soards*
> *15 NAYS: Bainbridge, Borst, Bradford, Cockrum, Coonrod, Dowden, Langsford, Massie, McWhirter, Moriarty Adams, Schneider, SerVaas, Smith, Talley, Tilford*

Councillor Dowden moved, seconded by Councillor Talley, for adoption. The motion carried by the following roll call vote; viz:

18 YEAS: Bainbridge, Borst, Bradford, Cockrum, Coonrod, Coughenour, Dowden, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Schneider, SerVaas, Smith, Soards, Talley, Tilford
11 NAYS: Black, Boyd, Brents, Conley, Douglas, Gibson, Gray, Horseman, Nytes, Sanders, Short

Proposal No. 697, 2001 was retitled SPECIAL RESOLUTION NO. 5, 2002, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 5, 2002

A SPECIAL RESOLUTION approving the preliminary determination for Marion County, Indiana ("County"), as lessee, to amend its lease with the Indianapolis-Marion County Building Authority ("Building Authority"), as lessor, in connection with its financing of improvements to a portion of the structures and improvements, located at 730 East Washington Street, Indianapolis, Indiana and 752 East Market Street, Indianapolis, Indiana (collectively, "Leased Premises").

WHEREAS, the City-County Council of the City of Indianapolis and Marion County, Indiana ("City-County Council"), have previously entered into a lease ("1997 Lease") for the Leased Premises, which annual lease rentals are used to pay the principal of, and interest on the Indianapolis-Marion County Building Authority Jail Building Bonds of 1997 (the "1997 Bonds"); and

WHEREAS the City-County Council and the Building Authority have given consideration to the renovation of all or a portion of the warehouse located at 752 East Market Street, Indianapolis, Indiana ("Warehouse"), for the primary purpose of using the Warehouse, once renovated, as an intake, processing, holding, and housing facility for persons in the custody of law enforcement (the "Lock-Up Facilities"); and

WHEREAS, the 1997 Lease must be amended to provide for the leasing of additional improvements to the Leased Premises hereinafter defined as the Project by the Building Authority to the County for a maximum lease term of twenty-five (25) years and a maximum annual lease rental of $1,272,000 (the "Lease Amendment"), which annual lease rentals will be used to pay the principal of, and interest on the proposed additional revenue bonds to be issued by the Building Authority for the Project, as such term is defined below; and

WHEREAS, pursuant to Indiana Code § 6-1.1-20-3.1, if the City-County Council proposes to impose additional property taxes to pay debt service or lease rentals on any construction, renovation, improvement, remodeling, alteration or expansion project, which is not excluded under Indiana Code § 6-1.1-20-1.1, it must conduct a public hearing on the preliminary determination to proceed with the project prior to the City-Council Council's adoption of any resolution or ordinance making a preliminary determination to issue bonds or enter into a lease; and

WHEREAS, notice of said hearing has been given in accordance with Indiana law; and

WHEREAS, interested parties have been given the opportunity to present testimony and ask questions concerning the proposed renovation of all or a portion of the Warehouse, for the primary purpose of using the Warehouse, once renovated, as Lock-Up Facilities (as hereinafter more fully described, "Project"), and this City-County Council has heard public input concerning the Project at a public hearing held this date; and

WHEREAS, the City-County Council being duly advised, finds that it is in the best interests of the City of Indianapolis, Indiana ("City"), the County, and its citizens to enter into negotiations with the Building Authority to issue additional bonds to finance renovations to all or a portion of the Warehouse, and for the County to amend its lease with the Building Authority, as lessor, for an additional term and to increase the lease rental payments to pay the Building Authority for such renovations in order to better serve the residents of the City and the County; now, therefore:

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

SECTION 1. The City-County Council hereby makes a preliminary determination for the County to amend the 1997 Lease, pursuant to which the Building Authority will renovate, construct and equip all or a portion of the Warehouse for the primary use as an intake, processing, holding, and housing facility for persons in the custody of law enforcement consisting of renovations and improvements to all or a portion of the basement,

all four floors, the exterior, and site of the Warehouse to allow for a new lock-up facility, and provide for additional inmate holding and housing, office space and clerical support space for City and/or County employees, and other program and service areas (collectively, "Project"). The Building Authority will finance all or a portion of the Project through the issuance of additional revenue bonds by the Building Authority, as lessor, in the maximum principal amount of $14,580,000. The Lease Amendment is for a maximum term of twenty-five (25) years, beginning on date the Project is complete and ready for occupancy. The estimated interest rates that will be paid on the additional bonds in connection with the Lease Amendment will range from four percent (4.0%) to six and three tenths percent (6.3%) (for an overall estimated average interest rate of five and seven tenths percent (5.7%) per annum), and the total interest costs associated with the Lease Amendment are $11,410,100. Including interest costs, the Lease Amendment will have a maximum annual lease rental of $1,272,000 to be paid by the County for the Project, once the Project is renovated, completed and ready for occupancy, and the maximum lease rental over the term of the lease is $24,880,000.

SECTION 2. A notice of the foregoing preliminary determination to amend the 1997 Lease shall be given in accordance with Indiana Code § 6-1.1-20-3.1.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal Nos. 7, 8, 9, and 11-14, 2002 on January 16, 2002. He asked for consent to vote on Proposal Nos. 7, 8, 9, 11, and 13, 2002 together. Consent was given.

PROPOSAL NO. 7, 2002. The proposal approves an increase of $19,716 in the 2002 Budget of the County Sheriff (State and Federal Grants Fund) for the reimbursement of two officers' overtime assigned to the FBI Task Force Program, funded by a FBI Task Force Grant. PROPOSAL NO. 8, 2002. The proposal approves an increase of $9,461 in the 2002 Budget of the County Sheriff (State and Federal Grants Fund) for a one-time reimbursement for one officer's salary assigned to the Drug Enforcement Administration, funded by a grant from the Department of Justice, Drug Enforcement Administration. PROPOSAL NO. 9, 2002. The proposal approves an increase of $23,715 in the 2002 Budget of the Marion County Justice Agency (State and Federal Grants Fund) for the development of the Indianapolis Violence Reduction Partnership Crime Database Web Application, funded by a grant from the Indiana Criminal Justice Institute (Local match of $7,950 is funded by existing appropriations in the Marion County Justice Agency budget.). PROPOSAL NO. 11, 2002. The proposal approves an increase of $505,506 in the 2002 Budgets of the County Auditor and Community Corrections (Home Detention Fund) to appropriate the second half of fiscal year 2001-2002 Home Detention Fund to fund personnel, home detention equipment, and office supplies. PROPOSAL NO. 13, 2002. The proposal approves an increase of $15,000 in the 2002 Budget of the Marion County Superior Court, Juvenile Division (State and Federal Grants Fund) to appropriate an Indiana Supreme Court grant for the Family Group Conferencing Program. By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass.

President SerVaas called for public testimony at 8:49 p.m. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Talley, for adoption. Proposal Nos. 7, 8, 9, 11, and 13, 2002 were adopted on the following roll call vote; viz:

25 YEAS: Bainbridge, Black, Borst, Boyd, Bradford, Brents, Cockrum, Conley, Coonrod, Coughenour, Douglas, Dowden, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Sanders, Schneider, SerVaas, Short, Smith, Soards, Talley, Tilford
0 NAYS:
4 NOT VOTING: Gibson, Gray, Horseman, Nytes

Proposal No. 7, 2002 was retitled FISCAL ORDINANCE NO. 1, 2002, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 1, 2002

A FISCAL ORDINANCE amending the City-County Annual Budget for 2002 (City-County Fiscal Ordinance No. 97, 2001) appropriating an additional Nineteen Thousand Seven Hundred Sixteen Dollars ($19,716) in the State and Federal Grants Fund for purposes of the County Sheriff and reducing the unappropriated and unencumbered balance in the State and Federal Grant Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.((f) of the City-County Annual Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of a reimbursement to the County Sheriff for two officers' overtime assigned to the FBI Task Force Program.

SECTION 2. The sum of Nineteen Thousand Seven Hundred Sixteen Dollars ($19,716) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

COUNTY SHERIFF	STATE AND FEDERAL GRANTS FUND
1. Personal Services	19,716
TOTAL INCREASE	19,716

SECTION 4. The said additional appropriation is funded by the following reductions:

	STATE AND FEDERAL GRANTS FUND
Unappropriated and Unencumbered State and Federal Grants Fund	19,716
TOTAL REDUCTION	19,716

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 8, 2002 was retitled FISCAL ORDINANCE NO. 2, 2002, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 2, 2002

A FISCAL ORDINANCE amending the City-County Annual Budget for 2002 (City-County Fiscal Ordinance No. 97, 2001) appropriating an additional Nine Thousand Four Hundred Sixty-one Dollars ($9,461) in the State and Federal Grants Fund for purposes of the County Sheriff and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.(f) of the City-County Annual Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes for a one-time reimbursement to the County Sheriff for one officer's salary assigned to the Drug Enforcement Administration.

SECTION 2. The sum of Nine Thousand Four Hundred Sixty-one Dollars ($9,461) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

COUNTY SHERIFF	STATE AND FEDERAL GRANTS FUND
1. Personal Services	9,461
TOTAL INCREASE	9,461

SECTION 4. The said additional appropriation is funded by the following reductions:

	STATE AND FEDERAL GRANTS FUND
Unappropriated and Unencumbered State and Federal Grants Fund	9,461
TOTAL REDUCTION	9,461

SECTION 5. Except to the extent of matching funds approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 9, 2002 was retitled FISCAL ORDINANCE NO. 3, 2002, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 3, 2002

A FISCAL ORDINANCE amending the City-County Annual Budget for 2002 (City-County Fiscal Ordinance No. 97, 2001) appropriating an additional Twenty Three Thousand Seven Hundred Fifteen Dollars ($23,715) in the State and Federal Grants Fund for purposes of the Marion County Justice Agency and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1 (i) of the City-County Annual Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Marion County Justice Agency to appropriate funds for the development of the Indianapolis Violence Reduction Partnership Crime Database Web Application. This will enhance information gathering and dissemination of crime information among local, state and federal agencies.

SECTION 2. The sum of Twenty Three Thousand Seven Hundred Fifteen Dollars ($23,715) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

MARION COUNTY JUSTICE AGENCY	STATE AND FEDERAL GRANTS FUND
3. Other Services and Charges	23,715
TOTAL INCREASE	23,715

SECTION 4. The said additional appropriation is funded by the following reductions:

	STATE AND FEDERAL GRANTS FUND
Unappropriated and Unencumbered State and Federal Grants Fund	23,715
TOTAL REDUCTION	23,715

SECTION 5. The local match of $7,905 is funded by the following existing appropriations in the Marion County Justice Agency budget and is hereby approved:

Existing appropriation for the Marion County Justice Agency:

	LAW ENFORCEMENT FUND
3. Other Services and Charges	7,905
TOTAL MATCH	7,905

SECTION 6. Except to the extent of matching funds approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 7. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 11, 2002 was retitled FISCAL ORDINANCE NO. 4, 2002, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 4, 2002

A FISCAL ORDINANCE amending the City-County Annual Budget for 2002 (City-County Fiscal Ordinance No. 97, 2001) appropriating an additional Five Hundred Five Thousand Five Hundred Six Dollars ($505,506) in the Home Detention User Fee Fund for purposes of the County Auditor and Community Corrections and reducing the unappropriated and unencumbered balance in the Home Detention Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1(g) of the City-County Annual Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the County Auditor and Community Corrections to appropriate the second half of fiscal year 2001-2002 Home Detention Fund to fund personnel, home detention equipment, and office supplies.

SECTION 2. The sum of Five Hundred Five Thousand Five Hundred Six Dollars ($505,506) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

COUNTY AUDITOR	HOME DETENTION FUND
1. Personal Services -fringes	92,190
COMMUNITY CORRECTION	
1. Personal Services	212,767
2. Supplies	15,500
3. Other Services and Charges	167,549
4. Capital Outlay	17,500
TOTAL INCREASE	505,506

SECTION 4. The said additional appropriation is funded by the following reductions:

	HOME DETENTION FUND
Unappropriated and Unencumbered Home Detention Fund	505,506
TOTAL REDUCTION	505,506

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 13, 2002 was retitled FISCAL ORDINANCE NO. 5, 2002, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 5, 2002

A FISCAL ORDINANCE amending the City-County Annual Budget for 2002 (City-County Fiscal Ordinance No. 97 2001) appropriating an additional Fifteen Thousand Dollars ($15,000) in the State and Federal Grants Fund for purposes of the Marion County Superior Court, Juvenile Division, and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1 (j) of the City-County Annual Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Marion County Superior Court, Juvenile Division, to appropriate an Indiana Supreme Court grant for the Family Group Conferencing Program.

SECTION 2. The sum of Fifteen Thousand Dollars ($15,000) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

MARION COUNTY SUPERIOR COURT JUVENILE DIVISON	STATE AND FEDERAL GRANTS FUND
3. Other Services and Charges	15,000
TOTAL INCREASE	15,000

SECTION 4. The said additional appropriation is funded by the following reductions:

	STATE AND FEDERAL GRANTS FUND
Unappropriated and Unencumbered State and Federal Grants Fund	15,000
TOTAL REDUCTION	15,000

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 14, 2002. The proposal approves an increase of $2,000 in the 2002 Budget of the Marion County Superior Court, Juvenile Division (State and Federal Grants Fund) to appropriate an AWI (Automated Wagering International) grant to purchase supplies for children's programs. By a 7-0 vote, the Committee postponed the proposal. Councillor Dowden moved, seconded by Councillor Talley, to postpone Proposal No. 14, 2002 until February 11, 2002. Proposal No. 14, 2002 was postponed by a unanimous voice vote.

PROPOSAL NO. 12, 2002. The proposal approves an increase of $45,000 in the 2002 Budgets of the County Auditor and Marion County Superior Court (State and Federal Grants Fund) to hire a Family Court Coordinator (Family Court Pilot Project), funded by a state grant. By a 6-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Schneider said that he voted against the proposal in committee because it is a new position that has no on-going funding identified and government continues to grow.

President SerVaas called for public testimony at 8:52 p.m. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Smith, for adoption. Proposal No. 12, 2002 was adopted on the following roll call vote; viz:

21 YEAS: Bainbridge, Borst, Boyd, Brents, Cockrum, Conley, Coonrod, Douglas, Dowden, Gibson, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Sanders, SerVaas, Short, Smith, Soards, Tilford
3 NAYS: Black, Bradford, Schneider
5 NOT VOTING: Coughenour, Gray, Horseman, Nytes, Talley

Proposal No. 12, 2002 was retitled FISCAL ORDINANCE NO. 6, 2002, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 6, 2002

A FISCAL ORDINANCE amending the City-County Annual Budget for 2002 (City-County Fiscal Ordinance No. 97, 2001) appropriating an additional Forty-five Thousand Dollars ($45,000) in the State and Federal Grants Fund for purposes of the County Auditor and Marion County Superior Court reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1(j) of the City-County Annual Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the County Auditor and Marion County Superior Court to hire a Family Court Coordinator (Family Court Pilot Project).

SECTION 2. The sum of Forty-five Thousand Dollars ($45,000) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

COUNTY AUDITOR	STATE AND FEDERAL GRANTS FUND
1. Personal Services -fringes	9,000
MARION COUNTY SUPERIOR COURT	
1. Personal Services	36,000
TOTAL INCREASE	45,000

SECTION 4. The said additional appropriation is funded by the following reductions:

	STATE AND FEDERAL GRANTS FUND
Unappropriated and Unencumbered State and Federal Grants Fund	45,000
TOTAL REDUCTION	45,000

SECTION 5. Except to the extent of matching funds approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 40, 2002. The proposal, sponsored by Councillor Massie, approves an increase of $75,000 in the 2002 Budget of the City-County Council (Consolidated County Fund) to provide for redistricting expenses, anticipated but not encumbered in 2001, financed by fund balances. Councillor Coonrod reported that the Administration and Finance Committee has not yet heard Proposal No. 40, 2002. He moved, seconded by Councillor Tilford, to postpone

Proposal No. 40, 2002 until February 11, 2002. Proposal No. 40, 2002 was postponed by a unanimous voice vote.

SPECIAL ORDERS - FINAL ADOPTION

Councillor Smith reported that the Metropolitan Development Committee heard Proposal Nos. 666 and 698, 2001 and Proposal No. 32, 2002 on January 14, 2002. He asked for consent to vote on these proposals together, as they all deal with the same subject matter. Consent was given.

PROPOSAL NO. 666, 2001. The proposal, sponsored by Councillors Smith, Boyd, and Nytes, amends Chapter 536 of the Revised Code regarding building standards and procedures. PROPOSAL NO. 698, 2001. The proposal, sponsored by Councillors Smith and Gray, amends the zoning ordinances to reflect the consolidation of the department of public works and the department of capital asset management into one department under the name of "department of public works," to reflect the reorganization of the division of permits of the department of metropolitan development under the new name "division of compliance," and to make corresponding technical corrections (01-AO-02). PROPOSAL NO. 32, 2002. The proposal, sponsored by Councillors Smith and Nytes, reorganizes the division of permits of the department of metropolitan development under the new name "division of compliance," to assign certain powers and duties to such division including duties previously assigned to other divisions and departments, and to make corresponding technical corrections to numerous sections of the Code. By 6-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Smith moved, seconded by Councillor Nytes, for adoption. Proposal Nos. 666 and 698, 2001 and Proposal No. 32, 2002 were adopted on the following roll call vote; viz:

23 YEAS: Bainbridge, Black, Boyd, Bradford, Brents, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Nytes, Sanders, Schneider, SerVaas, Smith, Soards, Tilford
0 NAYS:
6 NOT VOTING: Borst, Cockrum, Gray, Horseman, Short, Talley

Proposal No. 666, 2001 was retitled GENERAL ORDINANCE NO. 1, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 1, 2002

PROPOSAL FOR A GENERAL ORDINANCE to amend the "Revised Code of the Consolidated City and County" regarding building standards and procedures.

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

SECTION 1. Chapter 536 of the "Revised Code of the Consolidated City and County" regarding buildings and construction hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Chapter 536

BUILDINGS AND CONSTRUCTION

ARTICLE I. GENERAL PROVISIONS

Sec. 536-101. Title.

This chapter and all matter included herein by reference shall comprise and be known as the "Building Standards and Procedures of the Consolidated City of Indianapolis."

Sec. 536-102. Chapter ~~remedial;~~ purpose.

This chapter ~~is hereby declared to be remedial and~~ shall be construed in such a manner as to effectuate its purpose, which is to protect the life, public safety, health and general welfare of the citizens of the Consolidated City of Indianapolis.

Sec. 536-103. Severability.

If for any reason any article, division, section, subsection, sentence or phrase of this chapter or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter.

Sec. 536-111. Definitions.

Unless otherwise clearly indicated by the context, the terms defined in this section shall have the specified meanings when used in this chapter and chapter 875~~:~~. If a term defined in this section is inconsistent or conflicts with any term defined in a rule promulgated by the fire prevention and building safety commission, then the term, as defined by the fire prevention and building safety commission, will be applied to the rules promulgated by the fire prevention and building safety commission and incorporated by reference under Article VIII of this chapter.

(a) *Building equipment* means any machine, device, apparatus or material ~~located in or connected directly to a new or existing structure which is used by an occupant to supply or distribute water, remove wastes, supply or transmit electricity, supply or distribute fuel, create conditions of heat or of cold or accomplish the movement of air.~~ used as part of permanent heating, ventilation, air conditioning, electrical, plumbing sanitary, emergency detection, emergency communication, or fire or explosion systems.

(b) *Building standards and procedures* means regulations, standards or requirements relative to either construction ~~activity~~ or the condition of existing structures or building equipment established by or under federal law, state law or city ordinances. Building standards and procedures shall specifically include rules promulgated by the ~~Indiana Department of Fire and Building Services~~ Fire Prevention and Building Safety Commission, adopted herein by reference, and the substantive and procedural provisions of this chapter.

(c) *Class 1 structure* means any part of the following:

(1) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

a. The public;

b. Three (3) or more tenants; or

c. One (1) or more persons who act as the employees of another.

(2) A site improvement affecting access by persons with physical disabilities to a building or structure described in subdivision (1).

(3) Any class of buildings or structures that the Indiana Fire Prevention and Building Safety Commission determines by rules to affect a building or structure described in subdivision (1).

Class 1 structure includes a structure that contains three (3) or more condominium units (as defined in IC 32-1-6-2) or other units that:

(1) Are intended to be or are used or leased by the owner of the unit; and

(2) Are not completely separated from each other by an unimproved space.

Class 1 structure does not include a building or structure that:

(1) Is intended to be or is used only for an agricultural purpose on the land where it is located; and

(2) Is not used for retail trade or is a stand used for retail sales of farm produce for eight (8) or less consecutive months in a calendar year.

Class 1 structure does not include a Class 2 structure or a vehicular bridge.

(d) *Class 2 structure* means any part of the following:

(1) A building or structure that is intended to contain or contains only one (1) dwelling unit or two (2) dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

(2) An outbuilding for a structure described in subdivision (1), such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

Class 2 structure does not include a vehicular bridge.

(e) *Construction ~~activity~~ ~~means the erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing or remodeling of any new or existing structure or any part thereof; or the construction, installation, extension, repair, alteration, conversion, removal or maintenance of building equipment; provided, however, the phrase "construction activity" shall not include the construction, alteration, repair or maintenance of airplanes, boats, railroad rolling stock or motor vehicles; the manufacture or shop repair of building equipment; the installation, alteration, maintenance or repair of water supply lines from a public utility to a structure; the installation, alteration, maintenance or repair of gas supply lines from a public utility to a structure; the construction, installation, alteration, repair or maintenance of apparatus and equipment used by telegraph companies, electrical utility and telephone companies in the direct provision of services to the public; or the installation, alteration, maintenance or repair by an electrical utility of a system distributing electrical power to service equipment supplying power to factory constructed dwellings located in a mobile home park.~~* means any of the following:

(1) Fabrication of any part of an industrialized building system or mobile structure for use at another site;

(2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used;

(3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used;

(4) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure; or

(5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

(~~d~~f) *Cooling system* means a system which utilizes a source of energy to accomplish the cooling (not below a constant temperature of sixty (60) degrees Fahrenheit) of more than one (1) partitioned space in a structure or to accomplish the cooling of all or part of a structure by distribution of air through ductwork extending more than twelve (12) inches from the appliance collars, or distribution of liquid or vapor through on-site piping.

(~~e~~g) *Electrical power distribution system* means a system for the distribution of electrical current both within and on the exterior of a structure, from an electrical power source to receptacles or equipment which uses electricity; provided, however, that class 2 and class 3 circuits (as defined by the ~~National~~ Indiana Electrical Code) shall not be considered part of an electrical power distribution system for purposes of this definition.

(~~f~~h) *Heating system* means a system which utilizes a source of energy including, but not limited to, electricity, fossil fuels, geothermal, solar and wind, to accomplish the warming of more than one (1) partitioned space in a structure or to accomplish the warming of all or part of a structure by distribution of air through ductwork extending more than twelve (12) inches from the appliance collars, or distribution of liquid or vapor through on-site piping; provided, however, that a structural design which utilizes largely natural means to cause flow of thermal energy from the sun to accomplish warming of all or part of a structure shall not be considered a heating system for purposes of this definition.

(i) *Industrialized building system* means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

(j) *Manufactured home* has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 1984.

(k) *Mobile structure* means any part of a fabricated unit that is designed to be:

(1) Towed on its own chassis; and

(2) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

The term includes the following:

(1) Two (2) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; or

(2) Two (2) or more units that are separately towable but designed to be joined into one (1) integral unit.

(~~g~~l) *One- or two-family residential structure* means a one-family dwelling structure, a two-family dwelling structure or any accessory structure appurtenant to either a one-family dwelling structure or two-family dwelling structure.

(~~h~~m) *Ordinary maintenance and repair* means construction ~~activity~~ commonly accomplished in or on an existing structure ~~or existing building equipment~~ for the purpose 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 bricks, 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~~ which alters the prior or initial capacity, performance specifications, type of required energy or functional features of an existing structure or building equipment.

(~~i~~n) *Person* means an individual human being.

(~~j~~o) *Refrigeration equipment* means equipment which utilizes a source of energy to accomplish the cooling of a space or materials to a constant temperature below sixty (60) degrees Fahrenheit, typically for such purposes as food storage, mechanical fabrication, or industrial processing; provided, however, that plug-in electrical appliances such as freezers or icemakers that do not require more than twelve (12) amperes of current at a nominal one hundred fifteen (115) volts shall not be considered refrigeration equipment for purposes of this definition.

(~~k~~p) *Service equipment* means the necessary equipment, usually consisting of a circuit breaker or switch and fuses and their accessories, located near the point of entrance of electrical supply conductors to a structure or an otherwise defined area, intended to constitute the main control and means of cutoff of the electrical supply.

(~~l~~q) *Space cooling equipment* means equipment which utilizes a source of energy to accomplish the cooling (not below a constant temperature of sixty (60) degrees Fahrenheit) of an unpartitioned space within a structure in which the equipment is located without the use of ~~ductwork~~ duct work for the distribution of air extending more than twelve (12) inches beyond the appliance collars or the use of on-site piping for the distribution of liquid or vapor; provided, however, that plug-in electrical appliances such as window air conditioners that do not require more than twelve (12) amperes of current at a nominal one hundred fifteen (115) volts shall not be considered space cooling equipment for purposes of this definition.

(~~m~~r)*Space heating equipment* means equipment which utilizes a source of energy including, but not limited to, electricity, fossil fuels, geothermal, solar and wind, to accomplish the warming of an unpartitioned space within a structure in which the equipment is located without the use of air distribution ductwork which extends more than twelve (12) inches beyond the appliance collars or the use of on-site piping for the distribution of liquid or vapor; provided, however, that the following shall not be considered space heating equipment for purposes of this definition:

(1) Plug-in electrical appliances such as freestanding room heaters that do not require more than twelve (12) amperes of current at a nominal one hundred fifteen (115) volts;

(2) Self-contained fireplaces; and

(3) A structural design which utilizes largely natural means to cause flow of thermal energy from the sun to accomplish warming of all or part of a structure.

(~~ns~~) *Structure* means that which is built or constructed, such as an edifice or building of any kind, or any piece of work artificially built up or composed of parts formed together in some definite manner, or any part thereof. The word "structure" shall not include improvements such as public roadways or bridges.

Sec. 536-121. Administration of building code.

The ~~administrator of the neighborhood and development services division,~~ director of the department of metropolitan development, or his designee, shall administer and enforce the provisions of this chapter. Whenever in this chapter, it is provided that anything must be done to the approval of or subject to the direction of the director of the department of metropolitan development or any other officer of the City of Indianapolis, this shall be construed to give such officer only the discretion of determining whether this code has been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what this code shall be, or power to require conditions not prescribed by ordinances or to enforce this chapter in an arbitrary or discriminatory manner. Any variance from adopted building rules promulgated by the fire prevention and building safety commission are subject to approval under IC 22-13-2-7.

Sec. 536-122. Territorial application.

This chapter shall be applicable throughout the territorial limits of the consolidated city.

Sec. 536-123. Subject matter application.

All construction ~~activity~~ shall be accomplished in compliance with the provisions of this chapter. All existing structures and existing building equipment shall be subject to the provisions of this chapter. This chapter shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4: provided, however, any construction not certified under IC 22-15-4 related to an industrialized building system or mobile structure shall comply with the provisions of this chapter and the rules promulgated by the fire prevention and building safety commission.

Sec. 536-124. Discretion to modify forms.

The ~~administrator of the neighborhood and development services division~~ director of the department of metropolitan development, or his designee, is authorized to modify any of the forms set forth in this Chapter 536 so long as the altered form requests the same basic information. The ~~administrator~~ director, or his designee, for example, may replace questions, add reasonably related questions or explanatory material, reformat the form or combine the form with another form. The ~~administrator~~ director, or his designee, may authorize the form to be completed, used or stored electronically.

ARTICLE II. BUILDING PERMITS AND DESIGN AND SUPERVISION

Sec. 536-201. When building permits required; enforcement.

(a) *Permit required.* Except for construction ~~activity~~ specified in subsections (b) and (c), it shall be unlawful for a person, partnership or corporation to engage in any construction or demolition or removal of structures ~~activity in the city~~ unless a written building permit issued by the ~~neighborhood and development services~~ division of compliance describing the activity has been obtained by and is in force relative to the person, partnership or corporation which is actually accomplishing, supervising accomplishment or is contractually responsible for accomplishment of the construction ~~activity~~ allowed by the building permit. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars ($100.00), and each day that an offense continues shall constitute a separate violation. The city controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the department of metropolitan development.

(b) *Exemptions for one- and two-family dwellings.* With respect to ~~one- or two-family residential structures, their appurtenances, and accessory structures~~ Class 2 structures, the permit specified in subsection (a) shall not be required for:

(1) Replacement of exterior prime doors and windows (limited to like for like in a wall opening of the same dimensions which does not reduce the egress required by code provision existing at the time the building was constructed) if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; additionally, a person who owns or is purchasing a ~~one-~~

~~or two family residential~~ Class 2 structure on contract with intention to utilize the property for his or ~~hew~~ her own occupancy may likewise replace without permit prime doors and windows in such structure; or

(2) Replacement of an existing roof if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; and that construction does not involve:

a. A change in roof configuration; or

b. A change in type of roof covering (e.g., tile roofing replacing asphalt shingles) that would increase the dead load on the structure; or

c. The replacement of basic structural members that support the roof (e.g., replacement of a rafter or more than one hundred twenty-eight (128) feet of decking); or

d. The installation of heat-applied roofing material.

Additionally, a person who owns or is purchasing a ~~one- or two-family residential~~ Class 2 structure on contract with the intention to utilize the property for his or her own occupancy may affix without permit a layer of replacement shingles to a single layer of existing shingles provided that a layer of shingles is not removed and provided that the total shingle-roof application is performed by the owner or contract purchaser with assistance only by noncompensated volunteers;

(3) Installation and replacement of exterior siding if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; additionally, a person who owns or is purchasing a ~~one- or two-family residential~~ Class 2 structure on contract with the intention to utilize the property for his or her own occupancy may attach without permit a layer of siding to the existing sheathing without removal of existing sheathing, provided that the total siding application is performed by the owner or contract purchaser assisted only by noncompensated volunteers; or

(4) Ordinary maintenance and repair of a structure where the work does not reduce performance or create additional health or safety risks as defined in section 536-111(~~h~~ i); or

(5) Installation and replacement of fixtures attached to the walls or floors such as cupboards, cabinets, shelving, railings, tracks, wall and floor coverings, and doors; or

(6) Installation, maintenance and repair of storm windows and other exterior windows designed and used as protection against severe weather; or

(7) Exterior repair or renovation of a masonry chimney above the roof line that does not reduce the size of the flue opening; or

(8) Gutter replacement or installation; or

(9) Attachment of window awnings to exterior walls where the awnings project not more than forty-eight (48) inches from any wall; or

(10) Installation of thermal insulation; or

(11) Installation of additional non-load bearing walls that do not result in the creation of sleeping rooms; provided however, permits are required (except as otherwise specifically exempted by provisions of this section) for electrical, heating and cooling, or plumbing work; or

(12) Replacement of an attic fan, bathroom exhaust fan, range hood exhaust fan or whole house fan; or

(13) ~~Construction~~ Erection or installation of a fence or structural barrier in conformance with zoning requirements and any necessary certificates of appropriateness in a historic district; or

(14) ~~Construction~~ Erection or installation of an aboveground swimming pool thirty (30) inches or less deep and fifteen (15) feet or less at its widest points; or

(15) ~~Construction~~ Erection or installation of a deck where:

a. No part of the floor is more than thirty (30) inches above finished grade; and

b. There is compliance with the assessor notification requirements of section 536-215; or

(16) Erection of retaining walls which are not over four (4) feet in height measured from the lowest finished grade to the top of the wall, unless the walls are supporting a surcharge; or

(17) ~~Construction~~ Erection of a structure which spans one hundred twenty (120) square feet or less of base area, is less that fifteen (15) feet in height, is not placed on or attached to a permanent foundation and does not contain an electrical power distribution system, heating system, space heating equipment, cooling system, or space cooling equipment; or

(18) Ordinary maintenance and repair of building equipment where the work does not reduce performance or create additional safety or health risks; or

(19) Installation of a single-phase electric circuit not exceeding sixty (60) amperes at a nominal 120/240 volts which involves the installation, modernization, replacement, service or repair of a heating system, space heating equipment, cooling system, space cooling equipment, a water heater or a food waste disposer for which a building permit has been issued; or

(20) Installation of household appliances such as window air conditioners, refrigerators, refrigerators with automatic icemakers, ranges, microwave ovens, clothes washers, clothes dryers, dishwashers, food waste disposers and trash compactors when such installation does not include the installation of an electrical circuit; or

(21) Replacement in kind of piping in a plumbing system when the replacement piping meets the same performance specifications and has the same capacity as the piping being replaced and not more than twenty (20) percent of all piping in the structure is replaced; or

(22) Replacement of appliances, fixtures, traps and valves in a plumbing system; or

(23) Replacement of a water heater with one (1) that is identical as to venting arrangement and type of fuel or energy input; or

(24) Extension of heating or cooling duct work; or

(25) Placement of a ~~one-family factory-constructed building~~ manufactured home not on a permanent foundation in a ~~mobile~~ manufactured home park licensed by the Indiana State Department of Health; or

(26) Initial connection or reconnection of plumbing to a ~~mobile home~~ manufactured home not placed on a permanent foundation located in a ~~mobile~~ manufactured home park licensed by the Indiana State Department of Health; or

(27) Erection of real estate signs advertising real estate for sale or for rent in conformance with the size limitations of the zoning ordinance governing signs; or

(28) Connection, provision or use of temporary electrical power for on-site construction ~~activity~~.

(c) *Exemptions for commercial construction.* With respect to Class 1 structures ~~other than one- or two-family residential structures, their appurtenances, and accessory structures~~, permits specified in subsection (a) shall not be required for:

(1) Ordinary maintenance and repair of a structure where the work does not reduce performance or create additional safety or health risks as defined in section 536-111(~~hi~~); or

(2) Installation, maintenance and repair of storm windows and other exterior windows designed and used as protection against severe weather; or

(3) Attachment of window awnings to exterior walls where the awnings project not more than forty-eight (48) inches from any wall; or

(4) Painting, papering and similar finish work; or

(5) Installation of movable cases, counters and partitions not over sixty-nine (69) inches high; or

(6) ~~Construction~~ Erection or installation of temporary motion picture, television and theater stage sets and scenery; or

(7) Installation of thermal insulation; or

(8) ~~Construction~~ Erection or installation of a fence or structural barrier in conformance with zoning requirements and any necessary certificates of appropriateness in a historic district; or

(9) ~~Construction~~ Erection or installation of an aboveground swimming pool thirty (30) inches or less deep and fifteen (15) feet or less at its widest points; or

(10) ~~Construction~~ Erection or installation of platforms not more than thirty (30) inches above grade and not over any basement or story below; or

(11) Installation of water tanks supported directly upon grade if the capacity does not exceed five thousand (5,000) gallons and the ratio of height to diameter or width does not exceed two (2) to one (1); or

(12) Erection of oil derricks; or

(13) Erection of retaining walls which are not over four (4) feet in height measured from the lowest finished grade to the top of the wall, unless the walls are supporting a surcharge or used as a dike to impound flammable or combustible liquids or products that pose a health or safety risk (e.g., corrosives, oxidizers, poisons); or

(14) ~~Construction~~ Erection of a structure which spans one hundred twenty (120) square feet or less of base area, is less than fifteen (15) feet in height, is not placed on or attached to a permanent foundation and does not contain an electrical power distribution system, heating system, space heating equipment, cooling system, or space cooling equipment; or

(15) Erection of any sign in conformance with zoning requirements; or

(16) Ordinary maintenance and repair of building equipment where the work does not reduce performance or create additional safety or health risks; or

(17) Connection, provisions or use of temporary electrical power for on-site construction ~~activity~~; or

(18) Installation of household appliance such as window air conditioners, refrigerators, refrigerators with automatic icemakers, ranges, microwave ovens, clothes washers, clothes dryers, dishwashers, food waste disposers and trash compactors in apartment buildings when such installation does not include the installation of an electrical circuit; or

(19) Replacement in kind of piping in a plumbing system when the replacement piping meets the same performance specifications and has the same capacity as the piping being replaced and not more than twenty (20) percent of the piping in an area occupied by a single tenant in the structure is replaced; or

(20) Replacement of appliances, fixtures, traps and valves in a plumbing system; or

(21) Replacement of a water heater with one (1) that is identical as to venting arrangement and type of fuel or energy input.

(d) *Preservation districts.* Provisions in subsection (b) or (c) that exempt those engaged in certain construction ~~activity~~ from the obligation to secure a building permit do not affect the possible obligation to secure a certificate of appropriateness for construction either in an historic area designated by the Indianapolis Historic Preservation Commission or in the Meridian Street Preservation District designated by the Indiana Code. While a building permit may not be required, a certificate of appropriateness from the Indianapolis Historic Preservation Commission or the Meridian Street Preservation Commission may be required in such an area.

(e) *Flood control districts.* Provisions in subsection (b) or (c) that exempt those engaged in certain construction ~~activity~~ from the obligation to secure a building permit do not affect the possible obligation to secure a floodplain development permit for construction ~~activity~~ in the Flood Control Districts as designated by the Flood Control Districts Zoning Ordinance, General Ordinance No. 64, 1992. While a building permit may not be required, a floodplain development permit may be required in such areas.

Sec. 536-202. Eligibility to obtain and apply for a building permit.

(a) To obtain a building permit a person, partnership or corporation must meet the requirements of paragraphs (1) through (5) below and must be the person, partnership or corporation which will either actually accomplish, supervise accomplishment or be contractually responsible for accomplishment of the construction ~~activity~~ allowed by the building permit:

(1) Any person, partnership or corporation which is a listed contractor under Article I of Chapter 875 may:

a. Obtain a building permit to accomplish any construction ~~activity~~ except work for which Articles II, III or IV of Chapter 875 require licensure or IC 25-28.5-1 requires a state license; or

b. Obtain a master building permit under sections 536-203 or 536-204.

(2) Any person, partnership or corporation licensed under Articles II, III or IV of Chapter 875 may obtain a building permit solely to accomplish construction ~~activity~~ allowed by the license or type of license held by the person, partnership or corporation.

(3) Any person or corporation registered under Article V of Chapter 875 may obtain a building permit solely to accomplish construction ~~activity~~ for which state licensure as a plumbing contractor is required.

(4) Any person who is either a registered architect or registered engineer licensed to practice in the State of Indiana may obtain a building permit to accomplish any construction ~~activity~~ for which ~~the approval of the Indiana department of fire and building services, division of plan review~~ a design release is required and has been given by the office of the state building commissioner. Such architect or engineer, however, may not obtain a building permit for work relative to which Articles II, III or IV of Chapter 875 require a license.

(5) Any person, partnership or corporation which owns, is a contract purchaser or is a long-term lessee of an improved or unimproved parcel of land which the person, partnership or corporation intends to utilize for its own purposes (e.g., permanent business location, place of residence, rental property that the owner is obligated to maintain) may obtain a building permit to accomplish construction ~~activity~~ on such parcel carried out through direct efforts of:

a. The person; or

b. One (1) or more employees of the person, partnership or corporation (including temporary employees hired to do construction work); or

c. Persons who volunteer to work on the construction ~~activity~~ and who are not compensated for their services.

Such a person, partnership or corporation may not obtain a building permit to wreck a structure for which Article IV of Chapter 875 requires licensure. Such a person, partnership or corporation may not obtain a building permit for work relative to which IC 25-28.5-1 requires a state license. The requirements of section 875-222 and section 875-321 must be met for such a person, partnership or corporation to obtain a building permit to accomplish construction ~~activity~~ relative to which Articles II and III of Chapter 875 require licensure.

In addition, any person, partnership or corporation which owns, is a contract purchaser or is a long-term lessee of an improved or unimproved parcel of land which the person, partnership or corporation intends to utilize for its own purposes (e.g., permanent business location, place of residence, rental property that the owner is obligated to maintain) may obtain a building permit to allow construction ~~activity~~ on such parcel to be carried out by one (1) or more listed contractors as long as a single listed contractor is not responsible for all of the construction ~~activity~~ to be done on the parcel. Such a person, partnership or corporation may not obtain a ~~building~~ permit to ~~wreck~~ demolish or remove a structure for which Article IV of Chapter 875 requires licensure. Such a person, partnership or corporation may not obtain a building permit for work relative to which IC 25-28.5-1 requires a state license. The requirements of section 875-222 and section 875-321 must be met for such a person, partnership or corporation to obtain a building permit to accomplish construction ~~activity~~ relative to which Articles II and III of Chapter 875 require licensure.

(b) Application for a building permit may be made by the person entitled to obtain the permit or by an employee or agent of the person, partnership or corporation entitled to obtain the permit. The ~~neighborhood and development services~~ division of compliance may require that an employee or agent provide written authority to apply for the permit.

Sec. 536-203. Master permit.

A person, partnership or corporation listed as a contractor under section 875-106 may elect to obtain a master permit for all construction ~~activity~~ occurring at a structure. (However, the ~~neighborhood and development services~~ division of compliance is not obligated to start issuing master permits until computer equipment and programs needed to make issuance of such permits practicable and effective have been secured.) The master permit shall identify all construction ~~activity~~ to occur at the structure and shall be the sole permit needed to accomplish all work identified on the permit at the structure. The person, partnership or corporation obtaining the master permit shall be responsible for all construction ~~activity~~ occurring at the structure, including code compliance for all construction ~~activity~~ for which Articles II, III or IV of Chapter 875 of this Revised Code require licensure or IC 25-28.5-1 requires a state license.

Sec. 536-204. Procedure for obtaining a master permit.

In order to obtain a master permit, the person, partnership or corporation must either be licensed for all the types of construction ~~activity~~ that will occur at the structure or identify, at the time of application, a licensed subcontractor for every type of construction ~~activity~~ that will occur at the structure.

Sec. 536-205. Building permits obtained by written application.

(a) Application for a building permit shall be made to the ~~neighborhood and development services~~ division of compliance. The application shall be made in accordance with this section, unless each and every requirement of section 536-209 is met and the administrator decides to issue a building permit on the basis of that section.

(b) The application shall be in writing on a form prescribed by the ~~neighborhood and development services~~ division of compliance and shall be supported with:

(1) Two (2) copies of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all work to be accomplished pursuant to the building permit. In lieu thereof, it shall be within the discretion of the administrator of the ~~neighborhood and development services~~ division of compliance to accept two (2) copies of a written statement indicating the nature and location of the work to be done pursuant to the building permit where such written statement describes the work as precisely as a copy of detailed plans and specifications drawn to scale.

(2) Two (2) copies of a plot plan drawn to scale which reflect the location of the structure in relation to existing property lines and which show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks; provided, however, such plot plan shall not be required in the instance where all of the construction ~~activity~~ is to occur inside an existing structure.

(3) An improvement location permit, issued by the ~~neighborhood and development services~~ division of compliance, ~~department of metropolitan development,~~ if required by the ordinance providing for the improvement location permit.

(4) Written approval from the Marion County Health and Hospital Corporation for any contemplated private sewage disposal system.

(5) ~~Written approval from the Indiana department of fire and building services, division of plan review~~ Design release from the Office of the State Building Commissioner, in concurrence with the State Fire Marshall, if required by Indiana law or any rule of the fire prevention and building safety commission.

(6) A drainage permit, issued by the department of public works, if required by the ordinance providing for a drainage permit.

(7) A connection permit, issued by the department of public works, if required by the ordinance requiring a permit for connection to a sewer.

(c) In the instance where a building permit is requested for the purpose of allowing the demolition or removal of a structure, such application shall be supported with a written statement from each utility that its

service to the premises has been disconnected, and with either a written statement from the record titleholder of such premises authorizing the demolition or removal or a court order or administrative order requiring the demolition or removal of the structure.

(d) In the instance where a building permit is requested for the purpose of allowing the demolition or removal of a structure which is in excess of seventy-five (75) feet in height, such application shall be supported by a certificate of insurance reflecting that the obtainer of the building permit has a public liability and property damage insurance policy naming the licensee and the Consolidated City of Indianapolis as the assured and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis in the minimum amounts of one million dollars ($1,000,000.00) for any occurrence relative to which there is injury to or death of one (1) or more persons and five hundred thousand dollars ($500,000.00) for any occurrence relative to which there is property damage.

(e) In the instance where a building permit is requested for the purpose of constructing a swimming pool, such application shall include the name of the person responsible for constructing the required fence or safety pool cover.

(f) Except as provided in section 536-701 or 536-702, a building permit shall be issued if:

(1) The application and supporting information required by this section have been properly prepared and submitted; and

(2) The application and supporting information filed in accordance with this section reflect compliance with building standards and procedures; and

(3) The fee has been paid in compliance with article VI of this chapter; and

(4) The person, partnership or corporation obtaining the building permit complies with the requirements of section 536-202; and

(5) The person applying for the building permit complies with the requirements of section 536-202.

(g) By making payment for the building permit, the applicant and obtainer shall be deemed to represent and certify that the information contained in that permit is complete and accurate, unless the applicant or obtainer shall within ten (10) days provide in writing to the ~~neighborhood and development services~~ division of compliance any additions or corrections to that information.

Sec. 536-206. Structure requiring professional services of architects or engineers.

Except for those structures for which the rules of the fire prevention and building safety commission do not require filing of plans for ~~approval~~ design release by the responsible design architect or engineer, all detailed plans and specifications supplied with building permit applications shall be designed by and prepared under the control and supervision of a registered architect or engineer duly licensed to practice in the State of Indiana. Such professionally prepared plans and specifications shall bear the stamp or seal and registration number of such architect or engineer and shall be accompanied by the usual form of certification which is now or may be hereafter prescribed for use by architects and engineers by the ~~fire prevention and building safety commission~~ office of the state building commissioner.

Sec. 536-207. Scales of plans, numbering of plan sheets, provision of address on plan sheets.

All plans shall be drawn to scale or scales suitable to illustrate the work using accepted professional practices. Drawing scale or scales must be noted on each sheet. All plans with more than one (1) sheet shall be numbered. Except with respect to ~~one- or two-family residential~~ Class 2 structures, an index shall be furnished on the first sheet setting forth the character of each sheet in the set of plans. The address appearing on the building permit shall be placed in letters at least one-quarter inch high on the face of each sheet.

Sec. 536-208. Examination of detailed plans and specifications.

The purpose of any examination of detailed plans and specifications and plot plans shall be to determine consistency with building standards and procedures. Design characteristics not affecting consistency with building standards and procedures shall not be considered in any examination of detailed plans and specifications and plot plans. Issuance of a building permit relative to plans which do not comply with building standards and procedures shall not relieve the person, partnership or corporation who applied for or obtained the building permit of the responsibility of complying with all building standards and procedures. The ~~neighborhood and development services~~ division of compliance shall file-mark all acceptable plans

"plans received and application approved" and then return one (1) copy of the detailed plans and specifications and one (1) copy of the plot plan to the applicant.

Sec. 536-209. Permits obtained by a telephone communication.

(a) The administrator may, but is not required to, issue a permit on the basis of information received by a telephone call over a specified telephone line in the office of the ~~neighborhood and development services~~ division of compliance (to which may be attached a recording device to make a record of all information supplied).

(b) To receive a permit on the basis of a telephone communication, all of the following requirements must be met:

(1) The person, partnership or corporation obtaining the permit and the person applying for the permit are eligible to obtain and apply for a building permit pursuant to section 536-202, and:

a. Have accomplished construction ~~activity~~ in the consolidated city for a period of the preceding twelve (12) calendar months without a violation of building standards or procedures which caused a revocation of a building permit pursuant to section 536-704; issuance of a stop-work order pursuant to section 536-705; issuance of an order forbidding occupancy pursuant to section 536-706; initiation of a civil action filed pursuant to section 536-707; forfeiture of a licensing bond pursuant to section 536-708; or a judicially imposed fine or imprisonment pursuant to section 536-709; and

b. Have over the period of the previous one hundred eighty (180) days made prompt payment of all building permit fees for permits issued under this chapter;

(2) The construction ~~activity~~ is being accomplished in or on an existing structure;

(3) The construction ~~activity~~ does not involve the demolition or removal of a structure;

(4) The construction ~~activity~~ does not require the issuance of a design release by the ~~Indiana department of fire and building services, division of plan review~~ office of the state building commissioner;

(5) An improvement location permit, issued by the ~~neighborhood and development services~~ division of compliance, ~~department of metropolitan development,~~ is not required;

(6) Approval of the Marion County Health and Hospital Corporation for a private sewage disposal system is not required;

(7) The construction ~~activity~~ does not require a drainage permit; and

(8) The construction ~~activity~~ is susceptible to being accurately described without the aid of either a plot plan or detailed plans and specifications.

(c) The following information shall be supplied over the specified telephone line in order to obtain a building permit under this section 536-209:

(1) The name and address of the person telephoning (applicant);

(2) The name, address and number of the contractor in whose name the requested building permit is being issued (obtainer);

(3) The address of the construction ~~activity~~;

(4) A precise description of the construction ~~activity~~ to be accomplished;

(5) The value of the construction ~~activity~~.

(d) The obtainer of the building permit shall remit fees for the permit along with a written application (as provided for in section 536-205) to the ~~neighborhood and development services~~ division of compliance within five (5) business days following the date of the permit's issuance by check or money order made payable to the controller of the City of Indianapolis. The permit number shall be clearly marked on the face of the check or money order. Payment shall be made in the office of the ~~neighborhood and development services~~ division of compliance or through the United States Postal Service. If mailed, the postmark on the envelope

shall be evidence of compliance with the five-day remittance requirement. If payment is not received within five (5) business days, the permit shall be voidable by order of the administrator. If a permit issued under this section is voided, no further construction ~~activity~~ shall be accomplished under that permit.

(e) The building permit obtained in accordance with this section shall be in full force and effect at the time a building permit number is furnished by the ~~neighborhood and development services~~ division of compliance over the telephone line to the applicant. Following the issuance of the building permit in accordance with this section, the ~~neighborhood and development services~~ division of compliance shall, as soon as conveniently possible after the payment of the permit fee, mail a copy of the building permit document to the applicant for the building permit.

(f) By making payment for the building permit, the applicant and obtainer shall be deemed to represent and certify that the information contained in that permit is complete and accurate, unless the applicant or obtainer shall within ten (10) days provide in writing to the ~~neighborhood and development services~~ division of compliance any additions or corrections to that information.

Sec. 536-210. Permit and file-marked plans to be available.

Any person, partnership or corporation to which a building permit has been issued shall prominently display such permit or a document bearing the permit number provided by the ~~neighborhood and development services~~ division of compliance which evidences permit issuance, or, in the instance of a permit obtained by telephone communication, a paper bearing the authorization number, at the job site during construction ~~activity~~. If required to submit detailed plans and specifications in order to obtain a building permit such person, partnership or corporation shall have available for inspection at all times a copy of the detailed plans and specifications bearing the file mark of the ~~neighborhood and development services~~ division of compliance. Any change in such detailed plans and specifications, except for minor deviations that neither diminish structural quality nor would cause noncompliance with applicable building standards and procedures, shall be filed with and approved by the ~~neighborhood and development services~~ division of compliance prior to the time construction involving the change occurs.

Sec. 536-211. Transfer of building permits.

(a) A building permit may be transferred with the approval of the administrator of the ~~neighborhood and development services~~ division of compliance to a person, partnership or corporation which would be eligible under section 536-202 to obtain such building permit in the first instance (hereinafter called "transferee"), after both the payment of a fee and the execution and filing of a form furnished by the ~~neighborhood and development services~~ division of compliance. Such transfer form shall contain, in substance, the following certifications, release and agreement:

(1) The person who obtained the original building permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:

a. Certify under penalties for perjury that such person is familiar with construction ~~activity~~ accomplished pursuant to the building permit; such person is familiar with the building 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 building standards and procedures; and

b. Sign a statement releasing all rights and privileges secured under the building permit to the transferee.

(2) The transferee shall:

a. Certify that the transferee is familiar with the information contained in the original building permit application, the detailed plans and specifications, the plot plan and any other documents filed in support of the application for the original building permit; and

b. Certify that the transferee is familiar with the present condition of the premises on which construction ~~activity~~ is to be accomplished pursuant to the building permit; and

c. Agree to adopt and be bound by the information contained in the original application for the building permit, the detailed plans and specifications, the plot plan and other documents supporting the original building permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the ~~neighborhood and development services~~ division of compliance for approval.

(b) The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor (including, but not being limited to, the requirement of section 536-301 that a certificate of completion and compliance be executed and filed and the requirement of sections 536-402 and 536-403 that further construction ~~activity~~ not be accomplished without notice of and opportunity for inspection at certain stages) and shall be subject to any written orders issued by the administrator or his authorized representative.

(c) A permit for construction ~~activity~~ at a specified location may not be transferred to construction ~~activity~~ at a different location.

Sec. 536-212. Obligation of subsequent obtainer of building permit relative to partially completed work.

If construction ~~activity~~ allowed by a building permit has been commenced but only partially completed and a person, partnership or corporation desires to complete such construction ~~activity~~, then such person, partnership or corporation must obtain a building permit covering the construction previously accomplished as well as that to be accomplished, shall be responsible for accomplishing all construction ~~activity~~ encompassed by the subsequent building permit (including that previously accomplished) in accordance with building standards and procedures and shall be obligated to file a certificate of completion and compliance required by section 536-301 or 536-302 covering all the construction ~~activity~~ encompassed by the subsequent permit.

Sec. 536-213. Expiration of building permits by operation of law; extensions.

(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 building permit, the permit shall expire by operation of law and shall no longer be of any force or effect; provided, however, the administrator of the ~~neighborhood and development services~~ division of compliance may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances to allow commencement of the construction ~~activity~~. In no event shall the extension exceed a period of sixty (60) days.

(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 administrator may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances to allow resumption of construction ~~activity~~.

(c) If construction ~~activity~~ involving removal of a structure or part of a structure has not been completed within the following time periods, the building permit shall expire by operation of law and shall no longer be of any force or effect:

(1) Removal of all or part of a ~~one- or two-family residential structure~~ Class 2, thirty (30) days after issuance.

(2) Removal of all or part of a Class 1 structure ~~other than one- or two-family residential structure~~, sixty (60) days after issuance.

Provided, however, the administrator of the ~~neighborhood and development services~~ division of compliance may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances up to forty-five (45) days in length.

(d) An extension granted under this section shall be confirmed in writing.

Sec. 536-214. Defacing permit.

It shall be unlawful for any person, other than an employee of the ~~neighborhood and development services~~ division of compliance, to intentionally remove, deface, obscure, mutilate, mark or sign a posted building permit or a document bearing the permit number provided by the ~~neighborhood and development services~~ division of compliance which evidences permit issuance without authorization from the administrator of the ~~neighborhood and development services~~ division of compliance, or his authorized representative, until fifteen (15) calendar days after both the construction ~~activity~~ is completed and the ~~neighborhood and development services~~ division of compliance is notified of such completion.

Sec. 536-215. Notification to assessor about construction of deck.

(a) When a deck is constructed, the contractor (or the owner, if a contractor is not doing the work) must either:

(1) Secure a building permit; or

(2) Send a notice of the construction to the county assessor.

(b) The notice to the county assessor shall include the following information:

(1) The township where the property is located;

(2) The address of the property where the deck was constructed;

(3) The name of the owner of the property;

(4) The approximate size of the deck;

(5) The name of the contractor who constructed the deck; and

(6) The listing number of the contractor.

The notice shall be provided to the county assessor within thirty (30) days of the time the deck is substantially completed.

Sec. 536-216. Posting of contractor notification form at work site, notification to division and owners.

(a) Prior to the commencement of construction ~~activity~~ for which a listed contractor is not required to obtain a building permit because of an exemption provided in paragraphs (1), (2) or (3) of subsection (b) of section 536-201, the listed contractor shall complete the notification form prescribed in subsection (b), place the form on the site as specified in subsection (c) and notify the ~~neighborhood and development services~~ division of compliance as specified in subsection (d).

(b) The form shall be made of a reasonably durable material and shall contain the following information:

(1) Listing number assigned to the contractor by the city.

(2) Name of contractor.

(3) A description of the construction ~~activity~~ which is exempt from the building permit requirements.

(4) Address of the construction ~~activity~~.

(5) Date when the construction ~~activity~~ will be initiated.

(6) Certification by the contractor or an employee of the contractor that the contractor is listed, has a current bond and insurance, and is the contractor doing the construction ~~activity~~ at the job site.

(7) Verification number, if any, provided by the ~~neighborhood and development services~~ division of compliance to the contractor when notice of the construction ~~activity~~ was given to the division by the contractor.

(8) Signature of the owner (or a responsible person acting for the owner) indicating that the owner is aware that the ~~neighborhood and development services~~ division of compliance will make an inspection of the construction ~~activity~~ at the request of the owner.

The listing number shall be at least one (1) inch in height. The form shall include the license/listing seal of the City of Indianapolis, a notice indicating how the listing of the contractor can be verified by communicating with the ~~neighborhood and development services~~ division of compliance and how the owner can secure an inspection of the construction ~~activity~~ by the ~~neighborhood and development services~~ division of compliance. The administrator of the ~~neighborhood and development services~~ division of compliance shall specify the size, format, text and color of the form.

(c) The listed contractor shall place a copy of the completed contractor notification form at a prominent location at the work site where it can be easily seen and would be noticed, provided, however, this provision shall not require the contractor to place the form at a location objectionable to the owner. It is not necessary to post the notification form as required by subsection (a) if a building permit has been secured and is posted at the job site in accordance with section 536-210 of this chapter.

(d) The listed contractor shall deliver to the ~~neighborhood and development services~~ division of compliance a copy of the notification form specified in subsection (b). If prior to commencement of the construction ~~activity~~ the copy has not been delivered, the listed contractor shall notify the division by phone, followed by prompt delivery of a copy of the form to the division.

(e) Upon receipt of the filing required by subsection (d), the ~~neighborhood and development services~~ division of compliance shall mail notice to the owner of the owner's right to request inspection of the construction ~~activity~~.

Sec. 536-217. Notice of change in permit information; amendment of permits and plans.

(a) After a permit has been issued, the permittee shall give prompt written notice to the administrator of the ~~neighborhood and development services~~ division of compliance of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, any material deviation or change in the information contained in the permit application, the plans and specifications, or the plot plans shall be considered an amendment subject to approval by the ~~neighborhood and development services~~ division of compliance. Prior to the time construction ~~activity~~ involving the change occurs, the permittee shall file with the ~~neighborhood and development services~~ division of compliance a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

(c) The administrator shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans. Reinspection fees or other fees which are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

ARTICLE III. CERTIFICATE OF COMPLETION AND COMPLIANCE

Sec. 536-301. Filing of certificate of completion and compliance.

Within fourteen (14) days after completion of the construction ~~activity~~ for which a building permit has been issued pursuant to the provisions of this chapter and prior to the occupancy or use of the structure, the obtainer of the building permit (or an employee of the obtainer who is authorized to act for the obtainer) for such construction ~~activity~~ shall execute and file a certificate of completion and compliance with the ~~neighborhood and development services~~ division of compliance. Such certificate shall be in the following form:

CERTIFICATE OF COMPLETION AND COMPLIANCE

Address of premises on which construction activity was accomplished:

_____

Permit number: _____

The undersigned person hereby certifies under the penalties for perjury that:

1. I obtained the above referenced building permit or am an employee of the obtainer, and

2. I am familiar with the construction ~~activity~~ accomplished pursuant to that building permit, and

3. I know such construction ~~activity~~ has been completed with exceptions here noted _____ _____, and

4. I am familiar with building standards and procedures applicable to such construction ~~activity~~, and

5. To the best of my knowledge, information and belief such construction ~~activity~~ has been performed in conformity with all building standards and procedures.

Date: _____ Signature: _____ Typed or printed name _____

Electrical, heating and cooling or wrecking contractor license number, plumbing contractor registration number, contractor listing number, or registered architect or registered engineer registration number:_____

If a licensed electrical contractor has properly executed and delivered or mailed an electrical craft work certificate of completion and compliance pursuant to section 536-404(b)(3), he shall not be required to file the above certificate of completion and compliance.

If a registered architect or registered engineer has properly executed and delivered or mailed an architect's or engineer's certificate of completion and compliance pursuant to section 536-303, he shall not be required to file the above certificate of completion and compliance.

Sec. 536-302. Filing of certificate of completion and compliance for work done under a master permit.

Within fourteen (14) days after the completion of construction ~~activity~~ for which a master building permit has been issued pursuant to the provisions of this chapter and prior to the occupancy or use of the structure, the obtainer of the master permit (or an employee of the obtainer authorized to act for the obtainer) shall execute and file a certificate of completion for work done under a master permit with the ~~neighborhood and development services~~ division of compliance. All licensed or registered subcontractors who worked on the structure shall also execute the certificate. Such certificate shall be in the following form:

CERTIFICATE OF COMPLETION AND COMPLIANCE FOR WORK DONE UNDER A MASTER PERMIT

Address of premises on which construction ~~activity~~ was accomplished: _____

Permit Number: _____

The undersigned person(s) hereby certify under the penalties for perjury that:

1. I either:

(a) Obtained the above referenced building permit (or am an employee of the obtainer); or

(b) Am a licensed or registered subcontractor who performed work on the structure; and

2. I am familiar with that part of the construction ~~activity~~ accomplished pursuant to that building permit that is indicated below; and

3. I know the construction ~~activity~~ indicated below has been completed with exceptions noted below; and

4. I am familiar with building standards and procedures applicable to such construction ~~activity~~; and

5. To the best of my knowledge, information and belief, such construction ~~activity~~ indicated below has been performed in conformity with all building standards and procedures.

Structural

Listing #

Exception to work done

Signature

Typed or printed name

Date

Electrical

License #

Exception to work done

Signature

Typed or printed name

Date

Heating and Cooling

License #

Exception to work done

Signature

Typed or printed name

Date

Plumbing

Registration #

Exception to work done

Signature

Typed or printed name

Date

Wrecking

License #

Exception to work done

Signature

Typed or printed name

Date

If a licensed electrical contractor has properly executed and delivered or mailed an electrical craft work certificate of completion and compliance pursuant to section 536-404(b)(3), he shall not be required to file the above certificate of completion and compliance.

Sec. 536-303. Filing of architect's or engineer's certificate of completion and compliance.

Within fourteen (14) days after the completion of construction ~~activity~~ for which a building permit was issued pursuant to this chapter and for which review and monitoring of construction ~~activity~~ by an architect or engineer is required by the rules of the fire prevention and building safety commission, the architect or engineer who observed the construction ~~activity~~ accomplished pursuant to the permit shall execute and file an architect's or engineer's certificate of completion and compliance with the ~~neighborhood and development services~~ division of compliance in the following form:

ARCHITECT'S AND ENGINEER'S CERTIFICATE OF COMPLETION AND COMPLIANCE

Address of construction ~~activity~~: _____

Permit number: _____

The undersigned architect or engineer hereby states under penalties for perjury that:

1. I have made reasonable and periodic observation of the above mentioned construction project to determine whether the work accomplished is in accordance with the plans and specifications for this project as released by the ~~Indiana Department of Fire and Building Services, division of plan review~~ Office of the State Building Commissioner and whether the work accomplished is in compliance with rules promulgated by the Indiana ~~Department of Fire and Building Services~~ Fire Prevention and Building Safety Commission and provisions of Chapter 536 of the Revised Code of the Consolidated City and County, with the following exceptions hereafter noted: _____

2. I am familiar with such building standards and the provisions of Chapter 536 applicable to the work accomplished; and

3. To the best of my knowledge, information and belief such work has been accomplished in conformity with such building standards promulgated by the ~~Indiana Department of Fire and Building Services~~ Office of the State Building Commissioner and the provisions of Article III of Chapter 536.

Date: _____
Signature: _____

SEAL Typed name: _____
Architect No.: _____
Engineer No.: _____
Indiana Registration No.: _____
Address: _____
Phone number: _____

ARTICLE IV. INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES

Sec. 536-401. General authority to make investigations and inspections.

The administrator of the ~~neighborhood and development services~~ division of compliance or his authorized representative may at any reasonable time go in, upon, around or about the premises where any structure or building equipment subject to the provisions of this chapter or to the rules of the fire prevention and building safety commission is located (irrespective of whether a building permit has been or is required to be obtained) for the purpose of investigation and inspection of such structure or building equipment. Such investigation and inspection may be made either before or after construction ~~activity~~ on the project is completed ~~and it may be made~~ for the purposes~~, among others,~~ of determining whether the structure or building equipment meets building standards and procedures, and ascertaining whether the construction ~~activity~~ and procedures have been accomplished in a manner consistent with a certificate filed pursuant to sections 536-301, 536-302, 536-303 or 536-404(b)(3). All construction shall be subject to periodic inspections, and ~~R~~reasonable efforts to afford an opportunity for investigation and inspection of the structure or building equipment by the ~~neighborhood and development services~~ division of compliance shall be made by persons working on or having control of the construction ~~activity~~. However, nothing in this section shall be construed to require the administrator to make inspections and investigations.

Sec. 536-402. Notice of availability for inspection as a condition to the accomplishment of further work.

(a) Whenever a stage of construction ~~activity~~ is reached which is designated below, the person, partnership or corporation which obtained the permit shall be under a duty to give appropriate notice to the administrator of the ~~neighborhood and development services~~ division of compliance that the construction ~~activity~~ is available for inspection.

(b) Relative to the construction of, remodeling of or addition to a structure, notice of availability is required, as applicable, for:

(1) A "foundation inspection" after poles or piers are set, trenches or basement areas excavated, any required reinforcing steel is in place, but prior to the placing of concrete; and

(2) A "frame and masonry inspection" after the roof, masonry, all framing, firestopping and bracings are in place and all electrical wiring, pipes, chimneys and vents are complete, but prior to the interior covering of walls.

(c) Relative to the installation, modernization or replacement of building equipment (including but not limited to plumbing work for which licensure is required by the Indiana Plumbing Commission, or work on electrical power distribution systems, heating systems, space heating equipment, cooling systems or space cooling equipment), notice of availability for a separate "rough inspection" is required, as applicable, for each of the three (3) crafts after installation, but prior to the covering or concealment thereof and before fixtures are set.

(d) Relative to demolition or removal of a structure, notice of availability for a "fill inspection" is required (in the instance when a basement or subgrade chamber exists) after demolition or removal and prior to placing fill.

(e) The administrator or the administrator's authorized representative may, relative to any construction ~~activity~~, add a reasonable number of other construction stages by communicating the additional stage requirements to the person obtaining the building permit for that construction ~~activity~~.

(f) Notice of availability shall be given either by telephone communication over a specified telephone line in the office of the ~~neighborhood and development services~~ division of compliance (to which may be attached a recording device to make a record of all information supplied), by electronic means, by hand-delivered written notice or by a letter delivered by the United States Postal Service.

Sec. 536-403. Requirement that construction ~~activity~~ remain available for inspection.

Whenever a stage of construction ~~activity~~ designated in section 536-402 is reached, no person shall take any action or accomplish any additional construction ~~activity~~ which would substantially impede the opportunity of the administrator or the administrator's authorized representative to inspect that stage of construction ~~activity~~ for a period of at least forty-eight (48) hours after notice of the availability for inspection has been received during business hours in the ~~neighborhood and development services~~ division of compliance or until after an inspection is made, whichever first occurs; provided, however, if the forty-eight-hour period expires on a Saturday, Sunday, or legal holiday, the construction shall remain available for inspection until five o'clock p.m. on the next regular business day or until after an inspection is made, whichever first occurs. The forty-eight-hour period shall begin to run upon actual receipt of the notice during business hours but shall not run during any day when an inspection attempt by a representative of the ~~neighborhood and development services~~ division of compliance is unsuccessful because the work is not accessible.

A person, partnership or corporation may, however, pour a foundation two (2) hours after notification is received in the office of the ~~neighborhood and development services~~ division of compliance. If a foundation is so poured, the remainder of the excavation must remain open for a period of forty-eight (48) hours from the time when notice is received and the person, partnership or corporation must assist an inspector in making the excavation available for proper inspection; provided, however, if the forty-eight-hour period expires on a Saturday, Sunday, or legal holiday, the remainder of the excavation shall remain open until five o'clock p.m. on the next regular business day or until after an inspection is made, whichever first occurs.

Sec. 536-404. Connection, provision or use of electrical power.

(a) No person, partnership or corporation shall accomplish or allow the connection, provision or use of electrical power relative to an electrical power distribution system in or on a structure where construction ~~activity~~ (for which a building permit has been or is required to be obtained pursuant to this chapter) has been accomplished, until after an inspection has been made and a distinctive sticker (signifying the electrical power distribution system may be used) has been attached to each service equipment by the administrator or the administrator's authorized representative. It shall be unlawful for any person other than the administrator or the administrator's authorized representative to use, complete, apply or alter such sticker.

(b) As an alternative to section 536-404(a), the administrator of the ~~neighborhood and development services~~ division of compliance may allow the connection, provision or use of electrical power on the basis of certification by a person who is a licensed electrical contractor if all of the following requirements are met:

(1) After the completion of the work and before use of the electrical power distribution system is initiated, the licensed electrical contractor who applied for the building permit shall communicate

over a specified telephone line in the office of the ~~neighborhood and development services~~ division of compliance during business hours (to which the ~~neighborhood and development services~~ division of compliance may attach a recording device to make a record of all information supplied) the following information:

a. The name of the person telephoning;

b. The electrical contractor license number of the person telephoning;

c. The address of the affected premises;

d. The building permit number under which the construction ~~activity~~ was accomplished; and

e. The serial number of the electrical craft work certificate of completion and compliance form to be used.

(2) If such information is in order and if the licensed electrical contractor has accomplished construction ~~activity~~ for a period of the preceding twelve (12) calendar months without violation of building standards or procedures which in the discretion of the administrator are of sufficient seriousness to make the contractor ineligible to use the certificate, the ~~neighborhood and development services~~ division of compliance shall indicate over the specified telephone line authorization to attach a certificate to each service equipment and assign an authorization number to be placed on each certificate by the licensee.

(3) A certificate, in the following form, must then be executed and attached to each service equipment as a precondition to the connection, provision or use of electrical power.

ELECTRICAL CRAFT WORK CERTIFICATE OF COMPLETION AND COMPLIANCE

Address of the craft work: _____

Serial number: _____
Permit number: _____
Authorization number: _____

The undersigned licensee hereby certifies under the penalties for perjury that:

1. I am an electrical contractor licensed in accordance with Chapter 875 of the Revised Code of Indianapolis-Marion County, Indiana;

2. I am responsible for the proper completion of the construction ~~activity~~ which is the subject of the above referenced building permit as applicant for the permit or applicant representing the transferee of the permit; and

3. I have either personally accomplished or personally inspected all such construction ~~activity~~, or in the alternative, I have caused the construction ~~activity~~ to be inspected by a responsible and competent employee who works under my direction and control, who has fully reported to me the condition of the construction ~~activity~~; and

4. I know that such construction ~~activity~~ is completed and in condition for immediate and final inspection on the date stated below; and

5. I am familiar with building standards and procedures applicable to such construction ~~activity~~; and

6. I know that such construction ~~activity~~ has been done in compliance with all building standards and procedures; and

7. I acknowledge and understand that if such construction ~~activity~~ is done in violation of building standards and procedures, that under the provisions of Chapter 875 my electrical contractor's license may be suspended or revoked.

Date certificate attached to service equipment: _____

Signature: _____

Electrical contractor license number: _____

Typed or printed name: _____

After the signatory attaches a certificate to each service equipment, such person shall cause a duplicate copy of each certificate to be either delivered to the ~~neighborhood and development services~~ division of compliance or postmarked no later than the next business day by the United States Postal Service.

(4) After completion of the above requirements, the ~~neighborhood and development services~~ division of compliance will notify the electric utility that electrical power can be connected and used at the site.

(c) It shall be unlawful for any person, partnership or corporation to accomplish the connection, provision or use of electrical power relative to an electrical power distribution system without first receiving authorization from the ~~neighborhood and development services~~ division of compliance either by telephone communication and attachment of an electrical craft work certificate of completion and compliance or by the distinctive sticker described in section 536-404(a).

(d) Nothing stated in this section shall be construed to deny the right of the ~~neighborhood and development services~~ division of compliance to inspect the electrical power distribution system to which electrical power is connected either before or after such connection is made or before or after the electrical power distribution system is used.

(e) Electrical craft work certificates of completion and compliance may be purchased only by a licensed electrical contractor who is eligible to use such forms from the ~~neighborhood and development services~~ division of compliance acting on behalf of the controller, for a fee specified in Article VI of this chapter. Each certificate form shall bear a different serialized number which shall be recorded by the ~~neighborhood and development services~~ division of compliance along with the name and licensure number of the electrical contractor who purchases the form. The certificate may only be signed and attached by the licensed electrical contractor who purchased it from the ~~neighborhood and development services~~ division of compliance. It shall be unlawful to sell or transfer such certificate and unlawful to use, complete, sign or attach such a certificate except as prescribed in this section.

Sec. 536-405. Inspection of ~~one- and two-family residential~~ Class 2 structures at request of owner.

An owner of a ~~one- or two-family residential~~ Class 2 structure or a contract purchaser of such a structure who occupies the structure may request the ~~neighborhood and development services~~ division of compliance to inspect construction ~~activity~~ that has been completed within the preceding ninety (90) days on that structure. The request may be made irrespective of whether a building permit was required, or if required, whether a permit was obtained. The ~~neighborhood and development services~~ division of compliance shall accomplish an inspection if reasonably practicable. The person requesting the inspection must be willing to be present during the inspection. No charge shall be made for the inspection.

ARTICLE V. INSPECTION OF EXISTING STRUCTURES AND BUILDING EQUIPMENT CONTAINED THEREIN; SPECIAL STRUCTURES

Sec. 536-501. Inspection of existing public, institutional, commercial and industrial structures and building equipment contained therein.

The ~~administrator of the neighborhood and development services division~~ director of the department of metropolitan development or the ~~administrator's~~ director's authorized representative may inspect public school buildings, public assembly halls, churches, theaters, grandstands, buildings used for manufacturing or commercial purposes, hotels, motels, apartment houses, hospitals, nursing homes, buildings used for entertainment or amusement, and all other structures which are used, occupied or frequented by large numbers of people for the purpose of determining whether such structures and the building equipment related to such structures are safe and comply with applicable building standards and procedures.

Sec. 536-502. Inspection of dangerous structures.

The ~~administrator of the neighborhood and development services division~~ director of the department of metropolitan development or the director's ~~administrator's~~ authorized representative may inspect any structure

or building equipment reported or appearing to be defective, dangerous or damaged by fire, casualty or vandalism for the purpose of determining whether such structure or building equipment is safe and complies with applicable building standards and procedures.

Sec. 536-503. Inspection of premises on which municipally licensed activities are to be carried out.

At the request of the controller, the ~~administrator of the neighborhood and development services division~~ director of the department of metropolitan development or the ~~administrator's~~ director's authorized representative may inspect the structure and building equipment on any premises which are being used or may be used in connection with a business operation licensed pursuant to Title IV of this Code. Such inspection shall be made for the purpose of determining whether such structure and building equipment are safe and comply with applicable building standards and procedures. A fee specified by Article VI shall be paid for the original inspection and each annual reinspection by the person, partnership or corporation which made application to the controller for licensure of such business operation.

ARTICLE VI. FEES

Sec. 536-601. Payment of fees.

Fees required for activities regulated by this chapter shall be collected by the administrator, ~~neighborhood and development services~~ division of compliance, acting on behalf of the city controller and are specified in the following sections. All fees shall be rounded to the nearest whole dollar after computation. Floor area shall be determined on the basis of exterior dimensions.

Sec. 536-602. Permit fees for construction, placement or additions to structures.

(a) ~~One- or two-family residential~~ Class 2 structures:

(1) A ~~one- or two-family dwelling~~ primary Class 2 structure:

a. Minimum fee—$85.00.

b. General rate—$0.03 per square foot of gross floor area, which shall include the area of an attached garage or carport and the area of a finished basement or attic, but exclude the area of an unfinished basement or attic.

(2) Accessory Class 2 structure appurtenant to a ~~one- or two-family dwelling~~ primary Class 2 ~~structure~~:

a. Minimum fee—$40.00.

b. General rate—$0.03 per square foot of gross floor area.

(b) ~~Structures other than one- or two-family residential~~ Class1 structures:

(1) Minimum fee—$135.00.

(2) General rate—$0.04 per square foot of gross floor area, each floor.

Sec. 536-603. Permit fees for remodeling, alteration, or repair of structures.

(a) ~~One- or two-family residential~~ Class 2 structures:

(1) Minimum fee—$40.00.

(2) General rate—$7.00 per $1,000.00 of total value or $0.03 per square foot of gross floor area of each floor being remodeled or altered; whichever method of computation yields the lesser fee amount.

(3) When remodeling, alteration, or repair of a ~~one- or two-family residential~~ Class 2 structure is accomplished at the same time as an addition to an existing structure, a single permit fee shall be determined according to section 536-602.

(b) ~~Structures other than one- or two-family residential~~ Class 1 structures:

(1) Minimum fee—$75.00.

(2) General rate—$7.00 per $1,000.00 of total value or $0.04 per square foot of gross floor area of each floor being remodeled or altered; whichever method of computation yields the lesser fee amount.

Sec. 536-604. Permit fees for plumbing activity.

(a) Installation of plumbing system in a new structure or in an addition to an existing Class 1 structure ~~other than a one- or two-family dwelling structure~~:

(1) Minimum fee—$30.00.

(2) General rate—15% of the fee for the building permit (as provided for in section 536-602) which has been obtained for the new structure.

(b) Alteration, repair or replacement of plumbing in an existing structure~~,~~ or in an addition to an existing ~~one- or two-family dwelling~~ Class 2 structure~~, or in a structure appurtenant to a one- or two-family dwelling structure~~:

(1) Minimum fee—$20.00.

(2) General rate—$5.50 per $1,000.00 of total value.

(3) When documentation submitted prior to the issuance of a permit indicates that the value to the structural work is greater than or equal to the value of the plumbing work, the plumbing permit fee shall not exceed the structural permit fee (as provided in section 536-602(a) or in section 536-603).

(c) Initial connection or reconnection of plumbing to a structure which has been removed from one (1) location and is being placed at another location or to ~~a factory-constructed building~~ an industrialized building system, manufactured home or mobile structure —$25.00.

(d) If plumbing activity is limited solely to replacement or installation of one (1) or more water heaters in a structure:

(1) Minimum fee—$15.00.

(2) General rate—$5.50 per $1,000.00 of total value.

(e) A permit may encompass plumbing activity in one (1) fee category to be accomplished within a single structure, regardless of the number of independent systems in the structure. The amount of the permit fee for such activity shall be the minimum fee or the general rate, whichever is higher.

Sec. 536-605. Permit fees for electrical activity.

(a) Installation of an electrical power distribution system in a new structure or in an addition to an existing structure other than a ~~one- or two-family dwelling~~ Class 2 structure:

(1) Minimum fee—$35.00.

(2) General rate—20% of the fee for the building permit (as provided for in section 536-602) which has been obtained for the new structure or addition.

(b) Repair, alteration or remodeling of an electrical power distribution system in an existing structure, in an addition to a ~~one- or two-family dwelling~~ Class 2 structure~~, or in an accessory structure appurtenant to a one- or two-family dwelling structure~~:

(1) Minimum fee—$20.00.

(2) General rate—$5.50 per $1,000.00 total value.

(3) When documentation submitted prior to the issuance of a permit indicates that the value to the structural work is greater than or equal to the value of the electrical work, the electrical permit fee shall not exceed the structural permit fee (as provided for in section 536-602(a)).

(c) Installation or replacement of space heating equipment using electricity as its primary source of energy:

(1) Minimum fee—$20.00.

(2) General rate—$0.15 per each 1,000 Btuh of output capacity up to the first 1,200,000 Btuh and $0.07 per each additional 1,000 Btuh.

(d) Installation or replacement of space cooling equipment using electricity as its primary source of energy:

(1) Minimum fee—$20.00.

(2) General rate—$0.20 per 1,000 Btuh of output capacity up to the first 600,000 Btuh, and $0.07 per each additional 1,000 Btuh.

(e) Installation or replacement of combined space heating and space cooling equipment using electricity as their primary source of energy:

(1) Minimum fee—$25.00.

(2) General rate—70% of the sum of both general rates provided above in section 536-605(c)(2) and (d)(2) as they are applied to the heating output capacity and cooling output capacity, respectively, of the combined space equipment.

(f) Initial connection or reconnection of electrical power to a structure which has been removed from one (1) location and is being placed at another location—$25.00.

(g) Installation, alteration, replacement or repair of a system distributing electrical power to service equipment supplying power to ~~factory constructed dwellings~~ manufactured home located in a ~~mobile~~ manufactured home park:

(1) Minimum fee—$25.00.

(2) General rate—$6.00 per service equipment assembly located on property owned by the same person, partnership or corporation and available for inspection at one (1) time.

(h) "Electrical craft work certificate of completion and compliance" forms, as allowed in section 536-404—$7.00 each.

(i) A permit may encompass electrical activity in one (1) fee category to be accomplished within a single structure, regardless of the number of independent systems or equipment units in the structure. The amount of the permit fee for such activity shall be the minimum fee or the general rate, whichever is higher.

Sec. 536-606. Permit fees for heating, cooling and refrigeration activity.

(a) Heating systems:

(1) Installation, replacement, or addition which entails duct work or other types of heating transfer:

a. Minimum fee—$25.00.

b. General rate—$0.15 per each 1,000 Btuh of input capacity up to the first 1,200,000 Btuh, and $0.07 per additional 1,000 Btuh.

(2) Replacement or addition which does not entail duct work or other types of heating transfer:

a. Minimum fee—$20.00.

b. General rate—$0.15 per each 1,000 Btuh of input capacity up to the first 1,200,000 Btuh, and $0.07 per each additional 1,000 Btuh.

(b) Cooling systems:

(1) Installation, addition or replacement which entails duct work or other types of heating transfer:

a. Minimum fee—$25.00.

b. General rate—$0.20 per each 1,000 Btuh of input capacity up to the first 600,000 Btuh, and $0.07 per additional 1,000 Btuh.

(2) Installation or replacement which does not entail duct work or other types of cooling transfer:

a. Minimum fee—$20.00.

b. General rate—$0.20 per each 1,000 Btuh of input capacity up to the first 600,000 Btuh, and $0.07 per each additional 1,000 Btuh.

(c) Combined heating systems and cooling systems:

(1) Combined heating system and cooling systems entailing duct work or other types of heating or cooling transfer:

a. Minimum fee—$30.00.

b. General rate—70% of the sum of both general rates provided above in section 536-606(a)(1)b and 536-606(b)(1)b as they are applied to the heating input capacity and cooling input capacity, respectively, of the combined systems.

(2) Replacement or addition which does not entail duct work or other types of heating or cooling transfer:

a. Minimum fee—$25.00.

b. General rate—70% of the sum of both general rates provided above in section 536-606(a)(1)b and 536-606(b)(1)b as they are applied to the heating input capacity and cooling input capacity, respectively, of the combined systems.

(d) Space heating equipment:

(1) Installation of space heating equipment:

a. Minimum fee—$20.00.

b. General rate—$0.15 per each 1,000 Btuh of input capacity up to the first 1,200,000 Btuh, and $0.07 per each additional 1,000 Btuh.

(2) Replacement of space heating equipment:

a. Minimum fee—$20.00.

b. General rate—$0.15 per each 1,000 Btuh of input capacity up to the first 1,200,000 Btuh, and $0.07 per each additional 1,000 Btuh.

(e) Space cooling equipment:

(1) Installation of space cooling equipment:

a. Minimum fee—$20.00.

b. General rate—$0.20 per each 1,000 Btuh of input capacity up to the first 600,000 Btuh, and $0.07 per each additional 1,000 Btuh.

(2) Replacement of space cooling equipment:

a. Minimum fee—$20.00.

b. General rate—$0.20 per 1,000 Btuh of input capacity up to the first 600,000 Btuh, and $0.07 per each additional 1,000 Btuh.

(f) Combined space heating and space cooling equipment:

(1) Installation of combined space heating and space cooling equipment:

a. Minimum fee—$25.00.

b. General rate—70% of the sum of both general rates provided above in section 536-606(d)(1)b and 536-606(e)(1)b as they are applied to the heating output capacity and cooling output capacity, respectively, of the combined space equipment.

(2) Replacement of combined space heating and space cooling equipment:

a. Minimum fee—$25.00.

b. General rate—70% of the sum of both general rates provided above in section 536-606(d)(2)b and (e)(2)b as they are applied to the heating output capacity and cooling output capacity, respectively, of the combined space equipment.

(g) Refrigeration equipment:

(1) Installation of refrigeration equipment:

a. Minimum fee—$20.00.

b. General rate—$3.00 per horsepower or fraction thereof.

(2) Alteration or repair of refrigeration equipment:

a. Minimum fee—$20.00.

b. General rate—$5.50 per $1,000.00 of total value.

(h) A permit may encompass heating, cooling and refrigeration activity in one (1) fee category to be accomplished within a single structure, regardless of the number of independent systems or equipment units in the structure. The amount of the permit fee for such activity shall be the minimum fee or the general rate, whichever is higher.

Sec. 536-607. Permit fees for demolition or removal of structures.

(a) ~~One- or two-family dwelling~~ Class 2 structures:

(1) ~~One- or two-family dwelling~~ Primary Class 2 structures located on the same premises:

a. Tallest building is two-story—$40.00.

b. For each additional story of tallest building over two (2) stories, add $15.00.

(2) Accessory ~~structure appurtenant to a one- or two-family dwelling~~ Class 2 structure—$25.00.

(b) ~~Structures other than one- or two-family residential~~ Class 1 structures:

(1) One (1) story:

a. Ground floor area up to 2,000 square feet—$45.00.

b. Ground floor area up to 4,000 square feet—$85.00.

c. Ground floor area up to 10,000 square feet—$125.00.

d. Ground floor area up to 20,000 square feet—$180.00.

e. Ground floor area over 20,000 square feet—$355.00.

(2) For each additional story over one (1) story, add 50% of the ground floor area fee.

(c) Smokestacks, aboveground storage tanks, overhead hoppers, or other similar structures—$100.00.

Sec. 536-608. Fee for master permit.

The fee for the master permit shall be the sum of the fees (calculated according to sections 536-602, 536-603, 536-604, 536-605, 536-606 and 536-607) for the structural and craft work for which the master permit is issued.

Sec. 536-609. Reinspection fee.

(a) A reinspection fee of seventy-five dollars ($75.00) may be assessed at the discretion of the administrator (in accordance with a written policy established by the administrator) against a contractor relative to construction ~~activity~~ for which the contractor has obtained a building permit when an additional inspection visit to a construction address is needed because:

(1) Notice was not given that construction ~~activity~~ was available for inspection within the time period required by section 536-402 and the construction ~~activity~~ is no longer available for inspection; or

(2) Notice was given pursuant to section 536-402 that construction ~~activity~~ was available for inspection; and:

a. The construction ~~activity~~ could not be found because the construction address provided on the permit application was incorrect; or

b. The construction ~~activity~~ was not accessible when the inspector attempted to make the requested inspection at the time agreed upon for the inspection (or if no time was agreed upon, between 8:00 a.m. and 5:00 p.m. Monday through Friday on a day that is not a holiday); or

c. The construction ~~activity~~ was not yet sufficiently completed for an inspection to be made; or

d. The construction ~~activity~~ was covered or otherwise concealed and therefore not available for inspection; or

(3) A notice of correction was issued to the contractor and either no response from the contractor was made within the time specified for reinspection or the contractor requested reinspection of corrections and the corrections were not properly completed; or

(4) A certificate required by section 536-301, 536-302, 536-303 or 536-404 was not filed within the time period required by those sections.

(b) A reinspection fee of seventy-five dollars ($75.00) may be assessed at the discretion of the administrator (in accordance with a written policy established by the administrator) against a contractor relative to construction ~~activity~~ for which a building permit is not required when an additional inspection visit to the construction address is needed because an inspection revealed a substantive violation of the building standards and procedures, resulting in the issuance of a notice of correction.

Sec. 536-610. Miscellaneous inspection fees.

For inspection of premises upon which municipally licensed activities are to be carried out, as specified in section 536-503, initial inspection and annual reinspection—$26.00 for building inspection, and $42.00 for fire inspection.

Sec. 536-611. Fee for transfer of building permit.

Fee for transfer of building permit as provided for in section 536-211—$30.00.

Sec. 536-612. Fee for construction ~~activity~~ not specifically defined above.

If construction ~~activity~~ should not be adequately specified by above sections of this Article VI, the general permit or inspection fee shall be calculated at the following rate:

(1) Minimum fee (residential)—$25.00.

(2) Minimum fee (anything other than residential)—$30.00.

(3) General rate—$5.50 per $1,000.00 of total value.

Sec. 536-613. Fee exemption relative to construction ~~activity~~ accomplished by or for a governmental unit.

Permits, as required by section 536-201, shall be obtained for construction ~~activity~~ in the city accomplished by or for a governmental unit, and inspections as specified by this chapter relative to such construction ~~activity~~ shall be allowed. Fees shall be required as specified in this article, except for the following:

(1) Construction ~~activity~~ for which a fee cannot be charged by the municipality because of federal or state law; or

(2) Construction ~~activity~~ accomplished by a unit of local government, or by its employee or contractor in the course of such employee's or contractor's performance of duties for a unit of local government.

Sec. 536-614. Fee for building permit obtained by telephone communication.

When a building permit is obtained by telephone communication (as provided for in section 536-209) an additional fee of $7.00 shall be assessed.

Sec. 536-615. Fee for amendment of permit or plans.

Fee for the amendment of a building permit that requires submittal of additional plans, but does not cause the building permit fee to increase, shall be thirty dollars ($30.00).

Sec. 536-616. Fee for renewal after expiration.

Fee for renewal of a building permit (except for a permit that has expired under section 536-213(c)) shall be thirty dollars ($30.00).

Sec. 536-617. Fee for accelerated inspection option.

The administrator of the ~~neighborhood and development services~~ division of compliance may institute an accelerated inspection option for contractors who want to secure, quickly and within a definite time period, an inspection of construction ~~activity~~ for which they have secured a building permit. The administrator shall make known the hours during which the accelerated inspection option is available and the time within which an inspection will be made under the option. The fee for the accelerated inspection option shall be forty dollars ($40.00) for an inspection made from 8:00 a.m. through 5:00 p.m., Monday through Friday on a day that is not a holiday and sixty dollars ($60.00) for an inspection made any other time. The ~~neighborhood and development services~~ division of compliance may not require that contractors use the accelerated inspection to secure needed inspections.

Sec. 536-618. Refund of fees.

A permit fee paid under this chapter shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued and was in force at the time the second permit was applied for and issued.

ARTICLE VII. PENALTIES

Sec. 536-701. Failure to file a proper certificate of completion and compliance.

Any person, partnership or corporation which, being required to do so, fails to file with the ~~neighborhood and development services~~ division of compliance a certificate of completion and compliance in accordance with section 536-301, 536-302, 536-303, or 536-404(b)(3) of this chapter or who files a certificate of completion and compliance which is false in a material respect shall not be eligible to subsequently obtain a building permit until a proper certificate of completion and compliance is filed. This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

Sec. 536-702. Authority to withhold issuance of permits.

(a) Whenever a person, partnership or corporation which is either an applicant for or obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees owed pursuant to section 536-209 or reinspection fees owed pursuant to section 536-609) to the ~~neighborhood and development~~

~~services~~ division of compliance pursuant to this chapter or has failed to maintain the bond and insurance requirements of Chapter 875, the administrator is authorized to withhold the issuance of subsequently requested permits until such time that the debt is satisfied or the bond and insurance requirements are satisfied.

(b) Whenever a person, partnership or corporation applies for a building permit for a structure that is not being used or constructed in conformance with provisions of an applicable zoning ordinance or other ordinance relating to land use, the administrator is authorized to withhold the issuance of requested permits until such time that the real property is brought into compliance with applicable ordinances.

Sec. 536-704. Revocation of permits.

The administrator of the ~~neighborhood and development services~~ division of compliance may revoke a building permit when:

(1) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact; or

(2) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures; or

(3) There is a failure to comply with the requirements of section 536-202, 536-205, or 536-209; or

(4) The contractor has failed to maintain the surety bond or insurance required as a condition to his licensure or listing; or

(5) The contractor has failed to maintain the insurance required by section 536-205 as a prerequisite for obtaining a building permit for the demolition or removal of a structure in excess of seventy-five (75) feet in height.

(6) The structure for which a building permit has been issued is not being used or constructed in conformance with provisions of an applicable zoning ordinance or other ordinance relating to land use.

This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

Sec. 536-705. Stop-work order.

Whenever the administrator of the ~~neighborhood and development services~~ division of compliance or the administrator's authorized representative discovers the existence of any of the circumstances listed below, he is empowered to issue an order requiring the suspension of the pertinent construction ~~activity~~. The stop-work order shall be in writing and shall state to which construction ~~activity~~ it is applicable and the reason for its issuance. The stop-work order shall be posted on the property in a conspicuous place and, if conveniently possible, shall be given to the person doing the construction and to the owner of the property or his agent. The stop-work order shall state the conditions under which construction may be resumed.

(1) Construction ~~activity~~ is proceeding in an unsafe manner, including, by way of example and not of limitation, in violation of any standard set forth in this chapter or any state rule pertaining to safety during construction; or

(2) Construction ~~activity~~ is occurring in violation of building standards and procedures or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation; or

(3) Construction ~~activity~~ has been accomplished in violation of building standards and procedures and a period of time which is one-half the time period in which construction could be completed, but no longer than fifteen (15) calendar days has elapsed since written notice of the violation or noncompliance was either posted on the property in a conspicuous place or given to the person doing the construction, without the violation or noncompliance being corrected; or

(4) Construction ~~activity~~ for which a building permit is required is proceeding without a building permit being in force; in such an instance, the stop-work order shall indicate that the effect of the order terminates if the required building permit is obtained; or

(5) Construction ~~activity~~ for which a building permit was issued more than thirty (30) days earlier is proceeding without there being in force applicable permits and approvals required by governmental units (including, but not limited to, department of public safety, department of public works, Health

and Hospital Corporation of Marion County, state department of health, state department of natural resources, state highway department) for compliance with standards for air quality, drainage, flood control, fire safety, vehicular access, and waste treatment and disposal on the real estate on which the structure is located; in such an instance, the stop-work order shall indicate that the order is applicable to all construction ~~activity~~ allowed by the building permit and that the effect of the order terminates if the required permits and approvals are obtained; or

(6) Construction ~~activity~~ is occurring for which a certificate of appropriateness from the Indianapolis Historic Preservation Commission is required pursuant to IC 18-4-22-1 et seq., without a certificate of appropriateness being in force; in such an instance, the stop-work order shall indicate that the effect of the order terminates if the required certificate of appropriateness is obtained.

This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

Sec. 536-706. Order forbidding occupancy.

The administrator of the ~~neighborhood and development services~~ division of compliance or the administrator's authorized representative is empowered to issue an order forbidding the occupancy of any structure or part of any structure if construction ~~activity~~ on the structure or applicable part of the structure is not yet completed or has occurred in violation of applicable building standards and procedures.

The order forbidding occupancy shall be in writing specifying whether it is applicable to the entire structure or to only a part of the structure, and shall state the reason for its issuance. The order forbidding occupancy shall be posted on the structure in a conspicuous place and, if conveniently possible, shall be given to the owner of the property or his agent and to any person doing work on the premises. The order forbidding occupancy shall state the conditions under which the structure or part of the structure may be occupied.

This sanction shall in no way limit the operation of penalties provided elsewhere in the chapter.

Sec. 536-707. Civil action.

The Consolidated City of Indianapolis may initiate a civil action in a court of competent jurisdiction to restrain any person, partnership or corporation from violating a provision of this chapter, Chapter 875 or any building standard or procedure. The purposes for which injunctive relief may be obtained shall include, but not be limited to:

(1) Preventing a person, partnership or corporation which is not licensed as an electrical contractor, heating and cooling contractor or wrecking contractor, is not a registered plumbing contractor or is not a listed contractor from engaging in construction ~~activity~~ for which such licensure, registration or listing is required by Chapter 875; or

(2) Enforcing the provisions of a stop-work order issued pursuant to section 536-705; or

(3) Enforcing the provisions of an order forbidding occupancy issued pursuant to section 536-706; or

(4) Preventing work in violation of a building standard or procedure; or

(5) Requiring the reconstruction of any structure or building equipment, or part thereof, which was constructed in violation of building standards or procedures.

This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter or Chapter 875.

Sec. 536-708. Securing payment of bonds and drawing against letters of credit.

(a) Recovery of funds upon a surety bond obligation or letter of credit may be made by asserting a claim against the surety or financial institution or by initiating an action in a court of competent jurisdiction.

(1) A claim may be asserted by providing written notice of the claim to the surety or financial institution. The written notice must be provided within one (1) year of the date when the work occurred which gave rise to the claim or, in the instance when a fee is not paid, one (1) year from the date when the fee was first due and owing.

(2) Court actions may be initiated as follows:

a. The corporation counsel of the Consolidated City of Indianapolis may initiate an action in a court of competent jurisdiction to recover funds upon a bond obligation or a letter of credit:

1. To declare a forfeiture on the bond or letter of credit in an amount to be determined by the court up to ten thousand dollars ($10,000.00) whenever any listing or license issued pursuant to this chapter or Chapter 875 is suspended or revoked; or

2. To indemnify the Consolidated City of Indianapolis against any loss, damage or expense for damages to property of the city caused by an action of the contractor, his agents, employees, principals, subcontractors, materialmen or suppliers in violation of requirements of state statute, city regulation or this Revised Code, which requirements must be met to properly carry out construction ~~activity~~, a land alteration (as defined in section 561-109 of this Code), sewer work (as defined in section 671-1 of this Code) or driveway work (as defined in section 645-421 of this Code) while engaged in any construction ~~activity~~, land alteration, sewer work or driveway work; or excavation work as defined in section 645-431 of this Code;

3. To secure payment of any fees owed to the Consolidated City of Indianapolis pursuant to this chapter, Chapter 875, Chapter 561 of this Code, section 671-22 of this Code or sections 645-421 through 645-443 of this Code which have become delinquent, after reasonable notice has been given to the contractor of the delinquency.

b. A person, partnership or corporation which holds a property interest in the real estate on which construction ~~activity~~, a land alteration, sewer work, driveway work or excavation work has occurred may initiate an action in a court of competent jurisdiction against the bond or letter of credit for losses arising out of and expenses necessary to correct violations of requirements of state statute, city regulation or this Revised Code which must be met to properly carry out construction ~~activity~~, a land alteration, sewer work or driveway work, caused by any action of the contractor, his agents, employees, principals, subcontractors, materialmen or suppliers, after written notice of the Code deficiency has been given to the contractor and after the contractor is given a reasonable opportunity to correct performance. If such a person, partnership or corporation prevails in any action brought under this section, he may also recover, as part of the judgement, court costs and attorneys' fees based on actual time expended determined by the court to have been reasonably incurred by the plaintiff in connection with the commencement and prosecution of such action, unless the court in its discretion shall determine that an award of court costs and attorneys' fees would be inappropriate.

(b) A surety shall have no obligation to pay on a bond and a financial institution shall have no obligation to disburse from a letter of credit for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of state statute, city regulation or this Revised Code, which requirements must be met to properly carry out construction ~~activity~~, a land alteration, sewer work, driveway work or excavation.

(c) A surety shall have no obligation to pay on a bond and a financial institution shall have no obligation to disburse from a letter of credit unless either written notice of the claim is given to the surety or financial institution or a court action has been initiated within one (1) year of the date when the work occurred that gave rise to the claim or in the instance when a fee is not paid, one (1) year from the date when the fee was first due and owing. This paragraph shall not be construed to limit the time allowed by state law for the filing of court actions.

(d) If payment is made on a bond or if a letter of credit is drawn against, such bond or letter of credit shall be deemed to not meet the requirements of sections 875-109, 875-216, 875-315 or 875-415. In order to meet the requirements of sections 875-109, 875-216, 875-315 or 875-415, the person, partnership or corporation shall secure a new bond or letter of credit or replenish the bond or letter of credit so that it reflects an obligation in the full amount required for listing or licensure by sections 875-109, 875-216, 875-315 or 875-415.

Sec. 536-709. General penalty.

(a) Any person, partnership or corporation violating any provision of this chapter, Chapter 875 or any building standard or procedure may be subject to a fine in any sum not exceeding two thousand five hundred dollars ($2,500.00). This penalty shall in no way limit the operation of special penalties for specific provisions of this chapter, nor shall such special penalties in any way limit the operation of this general penalty.

(b) The minimum fine for engaging in construction ~~activity~~ without a license or listing, when required by this chapter or Chapter 875, is one thousand dollars ($1,000.00).

Sec. 536-710. Metropolitan development commission penalty guidelines.

The metropolitan development commission may establish guidelines establishing recommended civil penalties for various violations of this chapter and Chapter 875.

ARTICLE VIII. MINIMUM CONSTRUCTION STANDARDS

DIVISION 1. GENERALLY

Sec. 536-801. Minimum standards for structures and building equipment ~~not regulated by administrative building council~~.

(a) Building rules of the state fire prevention and building safety commission as set out in the following articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

(1) Article 13—Building Codes

a. Fire and Building Safety Standards ~~(675 IAC 13-1)~~

b. Indiana Building Code ~~(675 IAC 13-2)~~

~~c. Indiana Building Code Standards (675 IAC 13-3)~~

~~d. Indiana Handicapped Accessibility Code (675 IAC 13-4)~~

(2) Article 14—~~One and Two Family Dwelling Codes~~ Indiana Residential Code (formerly known as the Indiana One and Two Family Dwelling Code)

~~a. Council of American Building Officials One- and Two-Family Dwelling Code (675 IAC 14-1)~~

~~b. CABA One- and Two-Family Dwelling Code; Amendments (675 IAC 14-2.1)~~

~~c. Standard for Permanent Installation of Manufactured Homes (675 IAC 14-3)~~

(3) Article 16—Indiana Plumbing Codes

(4) Article 17—Indiana Electrical Codes

~~a. Indiana Electrical Code (675 IAC 17-1.1)~~

~~b. Safety Code for Health Care Facilities (675 IAC 17-2)~~

(5) Article 18—Indiana Mechanical Codes

~~a. Indiana Mechanical Code (675 IAC 18-1)~~

(6) Article 19— Indiana Energy Conservation Codes

~~a. Indiana Energy Conservation Code (675 IAC 19-1)~~

~~b. Modifications to the Model Energy Code (675 IAC 19-2)~~

(7) Article 20—Indiana Swimming Pool Codes

~~a.~~ Indiana Swimming Pool Code ~~(675 IAC 202-1)~~

(8) Article 22—Indiana Fire Code

(b) Copies of adopted building rules, codes and standards are on file in the office of the division of compliance ~~development services~~ of the department of metropolitan development for the Consolidated City of Indianapolis.

(c) The appeal of any decision concerning the rules incorporated under subsection (a) of this section shall lie first with the ~~administrator~~ director, ~~division of development services,~~ department of metropolitan development and to the fire prevention and building safety commission as provided by IC 22-13-2-7.

(d) Any variance of a rule adopted herein may be granted only by the fire prevention and building safety commission under IC 22-13-2-11.

Sec. 536-802. Required installation of food waste disposer.

An electrically driven grinder capable of reducing garbage so that it can be accommodated by the sewerage facilities of the Indianapolis Sanitary District shall be installed in the following dwelling units, if such dwelling units have in place or available to them a connection to the sewerage facilities of the Indianapolis Sanitary District:

(a) Every newly constructed dwelling unit containing a kitchen; and

(b) Every dwelling unit in which a kitchen is added; and

(c) Every dwelling unit where construction ~~activity~~ of a value in excess of two thousand dollars ($2,000.00), for which a building permit is required, is accomplished on a kitchen; and

(d) Every dwelling unit where construction ~~activity~~ of a value in excess of five hundred dollars ($500.00), for which a building permit is required, is accomplished on the plumbing system of a kitchen.

DIVISION 2. CONDITION OF PREMISES DURING CONSTRUCTION ~~ACTIVITY~~; DEMOLITION OR REMOVAL OF STRUCTURES

Sec. 536-821. Public property; walkways; dust control.

Any person, partnership or corporation carrying out construction ~~activity~~ shall comply with the following requirements:

(1) The use of public property shall meet the requirements of the governmental unit having jurisdiction. Building equipment and materials shall not be placed or stored on public property so as to obstruct free and convenient access to and functioning of any fire hydrant, fire or police call box, utility device, manhole, street, alley or gutter. A protective frame shall be provided for any fire hydrant, fire or police call box or utility device which might be damaged by construction ~~activity~~. Bridges or covers shall be provided for sidewalks and manholes which might be damaged by construction ~~activity~~.

(2) A walkway shall be constructed and maintained on the sidewalk and alley around the site of construction ~~activity~~ involving the erection, construction, major alteration or razing of any structure (except signs, grandstands, tents, air-supported structures) (1) which has an initial or ultimate height in excess of fifteen (15) feet and (2) which is located (or any part of an excavation more than eight (8) feet in depth relative to such construction ~~activity~~ is located) within twenty (20) feet of the lot line, sidewalk or street (whichever is closer to such structure or excavation); provided, however, that the administrator of the division of development services has the discretion to waive the requirement of placing the walkway on a showing that omission of the walkway will not significantly increase the possibility of injury to persons or damage to property as a result of construction ~~activity~~ on the site. The walkway may be placed further from the site on a sidewalk or within a street or alley if the governmental unit having jurisdiction gives appropriate authorization. Such walkway shall be equipped with suitable lighting devices and illumination shall be provided in the walkway at all times. Such walkway shall at all times be maintained in a clean and sanitary condition and shall be kept free from rubbish, litter and advertising display and shall be provided with suitable solid inclined approaches. Such walkway shall be not less than four (4) feet in width and shall have a durable wearing surface capable of supporting a live load of two hundred (200) pounds per square foot, be provided with a fence along the construction side, a railing along the street side and a full roof above, so as to afford maximum protection to pedestrians. The protective fence shall be no less than eight (8) feet high above the grade and be constructed from three-quarter-inch boards or plywood laid tightly together and securely fastened to four-inch uprights, set not over four (4) feet apart, with two-inch by six-inch bracing and girts. The posts shall be securely

set and braced to prevent buckling and overturning. Openings in the fence shall be protected by doors which are normally kept closed. The protective railings shall be substantially built and when of wood shall be constructed of new material having a nominal size of at least two (2) inches by four (4) inches. Railings shall be at least four (4) feet in height and when adjacent to the excavation shall be provided with a midrail. The protective roof shall have a clear height of eight (8) feet above the walkway. The roof shall be tightly sheathed. The sheathing shall be two-inch nominal wood planking or equal. Such walkways shall be maintained in place and kept in good condition for the length of time construction ~~activity~~ continues, after which it shall be removed within thirty (30) days.

(3) Emission of excessive dust or particulate matter shall not occur in the course of construction ~~activity~~. A sufficient supply of water shall be available at the site of construction ~~activity~~ in case it may be needed to put out a small fire or settle dust.

Sec. 536-822. Removing structures.

Any person, partnership or corporation carrying out ~~construction activity limited to~~ the demolishing, dismantling, dismembering, razing or removing a structure shall in addition to the requirements of section 536-821 comply with the following requirements:

(1) The administrator of the division of ~~development services~~ compliance or his authorized representative may, if reasonably necessary to insure public safety, require the licensed wrecking contractor to submit plans and a complete schedule for demolition. Where such are required, no work shall be accomplished until such plans and schedule are approved by the administrator, the division of ~~development services~~ compliance, or his authorized representative.

(2) Blasting and use of explosives shall be accomplished only by a person who has obtained a blasting permit pursuant to the requirements of this Code and by special permission of and under the supervision of the administrator of the division of ~~development services~~ compliance, the fire prevention bureau of the appropriate jurisdiction, and the division of air pollution control.

(3) No open fires or other sources of flame except necessary cutting torches are permitted on the inside of the structure which is being wrecked, or in close proximity to flammable materials located outside of the structure, and every reasonable precaution shall be taken to prevent the possibility of fire.

(4) Suitable provisions shall be made for the disposal of materials which are accumulated during the wrecking of a structure.

(5) The buildings, foundations, curbs, sidewalks, concrete or asphalt drives and all appurtenances shall be removed to one (1) foot below the ground line or one (1) foot below subgrade elevation, whichever of the two (2) is lower. Such removal shall also include the removal and disposal of buried or exposed tanks. Concrete slabs, under which a basement, pit, well or cistern exists, shall be broken and removed.

(6) All rubbish and debris including any goods, merchandise, commodities, products or materials of any kind which may have been stored within the structure being wrecked or on such property shall be removed or cleaned away, the ground leveled off, and the premises put in a clean and sanitary condition; provided, however, that if such property is properly fenced and the erection of a new structure is to be commenced within ninety (90) days, the ground need not be leveled until all such work on the premises is completed.

(7) Material used for fill or grading shall be only material that can be properly compacted in order to avoid future settlement of filled-in earth or the structure erected over such fill. No pieces of stone, lumber, boards or other material which due to their size or character would prevent proper compaction or would cause later settlement of the surface shall be used in such fill.

(8) Where a structure is wrecked and an excavation which at any point is eight (8) or more feet below grade level is left unfilled, the fence portion of the walkway required by section 536-821(2) shall remain at the site; provided, however, that the administrator of the division of ~~development services~~ compliance may approve a fence that does not meet the standards of section 536-821(2) so long as it is sufficient to prevent persons, especially children, from falling into the excavation.

Sec. 536-823. Electrical power for on-site construction ~~activity~~.

(a) No person, partnership or corporation shall accomplish or allow the connection, provision or use of electrical power for on-site construction ~~activity~~ until after a statement of acceptable condition for temporary on-site electrical power has been attached to the temporary service equipment. Such statement shall be in the following form:

STATEMENT OF ACCEPTABLE CONDITIONS FOR TEMPORARY ON-SITE ELECTRICAL POWER

Address of temporary service equipment: _____

The undersigned licensee hereby certifies under the penalties for perjury that:

1. I am an electrical contractor licensed in accordance with Chapter 536 of the Revised Code of Indianapolis-Marion County, Indiana; and

2. I have either personally accomplished or personally inspected all the above referenced electrical work accomplished in connection with the installation of the temporary service equipment, or in the alternative, I have caused such electrical work to be inspected by a responsible and competent employee who works under my direction and control, who has fully reported to me the condition of such electrical work; and

3. I am familiar with building standards and procedures applicable to electrical work accomplished in connection with the installation of temporary service equipment; and

4. I know that such electrical work has been done in compliance with all building standards and procedures; and

5. I acknowledge and understand that if such electrical work is done in violation of building standards and procedures, that under the provisions of Chapter 536 my electrical contractor's license may be suspended or revoked.

Date certificate attached to service equipment: _____

Signature: _____

Electrical contractor license number: _____

Type or printed name: _____

(b) The provision and use of electrical power for on-site construction ~~activity~~ shall be subject to reasonable orders made by the administrator or his authorized representative pertaining to such matters as magnitude, duration and method of furnishing and distributing electrical power.

Sec. 536-824. Temporary sign at site of construction of new structure.

At any location where a structure, not part of or attached to any other structure, is being erected in the consolidated city, the person obtaining the building permit for said structure shall be responsible for placing and maintaining a temporary sign on the premises during construction. The sign shall state the street name and address of the premises as reflected in the building permit and all building permit numbers pertaining to the construction ~~activity~~ accomplished on the premises shall be placed on the sign. The address information on the sign shall be clearly visible from the street. The sign required by this section shall conform to all zoning requirements.

~~DIVISION 3. ONE- AND TWO-FAMILY DWELLINGS INDUSTRIALIZED BUILDING SYSTEMS AND MOBILE STRUCTURES~~

~~**Sec. 536-831. Factory-constructed one- and two-family residential buildings placed on a permanent foundation.**~~

~~(a) Indiana law specifies that rules adopted by the fire prevention and building safety commission pursuant to IC 22-11-1 establish construction standards applicable throughout the State of Indiana. One rule, the Indiana One- and Two-Family Dwelling Code, adopted by reference under section 536-801, establishes construction standards for most one- and two-family houses. This rule establishes set-up and utility connection requirements for the following categories of factory-constructed buildings located or used as a one- or two-family dwelling unit which are placed on a permanent foundation:~~

~~(1) One- or two-family dwelling units which bear a seal certifying compliance with the Indiana One- and Two- Family Dwelling Code; and~~

~~(2) One-family dwelling units which bear a seal certifying compliance with the Federal Manufactured Housing Construction and Safety Standards law.~~

~~The Indiana One- and Two-Family Dwelling Code is, in accordance with state law, enforceable by the division of development services in the Consolidated City of Indianapolis.~~

~~(b) Public Law 312 of the Acts of 1981 authorizes local units of government to adopt underfloor space enclosure requirements for dwelling units, including those units designed and built in a factory which bear a seal certifying compliance with the Federal Manufactured Housing Construction and Safety Standards law. The following categories of factory constructed buildings located or used as a one- or two-family dwelling unit which are placed on a permanent foundation in Marion County must meet the requirements set forth in this subsection:~~

~~(1) One- or two-family dwelling units which bear a seal certifying compliance with the Indiana One- and Two-Family Dwelling Code and which are constructed in such manner as to allow the unit to be towed on its own chassis; and~~

~~(2) One-family dwelling units which bear a seal certifying compliance with the Federal Manufactured Housing Construction and Safety Standards law.~~

~~Such units must be erected on foundations, footings and crawl spaces or basement walls, constructed in accordance with the Indiana One- and Two-Family Dwelling Code. The space between the floor joists of the unit and the underfloor grade shall be completely enclosed with a permanent perimeter enclosure. The permanent perimeter enclosure shall be constructed of materials allowed by Chapter 3 of the Indiana One- and Two-Family Dwelling Code, shall have the number and type of access and ventilation openings required by such code and shall be built in such a manner that it will not subject the unit to frost heaving as prescribed in the Indiana One- and Two-Family Dwelling Code.~~

~~(c) All factory constructed buildings located or used as a one- or two-family dwelling which are placed on a permanent foundation in Marion County shall contain in each kitchen an electrically driven garbage grinder meeting the requirements of section 536-802 if the dwelling has in place or available to it a connection to the sewerage facilities of the Indianapolis Sanitary District.~~

~~If work at the site involves additional construction or use of components not certified by the dwelling manufacturer pursuant to standards and procedures of the Federal Department of Housing and Urban Development under the Federal Manufactured Housing Construction and Safety Standards law or the fire prevention and building safety commission under Public Law 360 of the Act of 1971, such work must conform with the Indiana One- and Two-Family Dwelling Code. Where the manufacturers' instructions or procedures differ from those in the Indiana One- and Two-Family Dwelling Code or this division, the most restrictive requirements shall be followed.~~

~~Sec. 536-832. Factory-constructed one- and two-family residential buildings not placed on a permanent foundation.~~

~~All factory-constructed buildings located or used as a one- or two-family dwelling unit in the consolidated city must comply with the following requirements if the building is not placed on a permanent foundation:~~

~~(1) Be supported on footings which are placed on undisturbed earth or on controlled fill free of grass and organic material compacted to a minimum load bearing capacity of two thousand (2,000) pounds per square foot. The footings shall be of such area and spacing as to support the weight of the home when distributed among the piers specified by the manufacturer. The footings may be concrete pads or reinforced concrete slabs extending the length of the buildings.~~

~~(2) Be supported above the footings by concrete block, approved pressure treated wood, concrete or steel piers which conform with the manufacturers' instructions and published industry standards, which recognize height and attachment needs and which are acceptable to the administrator of the division of development services.~~

~~(3) Be supported and anchored for not less than a wind pressure specified in the Indiana One- and Two-Family Dwelling Code, adopted by reference under section 536-801, in a manner compatible with the manufacturers' instructions and acceptable to the administrator of the division of~~

development services. Wind anchors shall equal the requirements of Section 11 of the state board of health Rule 410 IAC 6-6. If there is a continuous reinforced concrete support slab, it may be designed to incorporate anchorage attachments. Vertical and diagonal ties between the anchors and the building shall attach to the building as specified by the manufacturer and be of material adequate to meet strength requirements. If anchors and building supports are not a single rigid combination, adjustment means must be provided to prevent damage to buildings due to frost heaving.

(4) Have a minimum twelve inch servicing clearance between the structural members below the building and the earth or concrete. If water can accumulate in this space, drainage must be provided.

(5) Provide electric service in accordance with the Indiana Electrical Code, adopted by reference under section 536-801.

(6) Have potable water and sewer connections conforming with Sections 10 and 11 of Indiana Plumbing Code, adopted by reference under section 536-801. Between grade level and the dwelling, sufficient pipe fixture must be provided to absorb the effect of frost heaving. The potable water connection shall include a main shutoff valve and be protected against freezing in accord with the manufacturers' instructions. A food disposal unit meeting the requirements of section 536-802 shall be installed if the dwelling has a place or available to it a connection to the sewerage facilities of the Indianapolis Sanitary District.

(7) Fuel piping from grade to the dwelling shall conform with the Indiana Mechanical Code, adopted by reference under section 536-801, and be able to flex enough to absorb the effect of frost heaving. Facilities for storing fuel oil or LP gas shall meet the requirements of the state fire marshal. If a furnace or water heater within the building draws in combustion air from space below the dwelling floor, a permanent opening of equivalent free area must be placed in the perimeter enclosure. If heating or cooling equipment is not installed within the delivered building, its construction and installation shall conform with the Indiana Mechanical Code and Indiana Electrical Code.

(8) Have siding or skirting (or a more durable material) enclosing the entire perimeter of the home from grade level to the lower edge of the home. Such siding or skirting and back up framing shall be weather resistant, noncombustible or self extinguishing materials, which blend with the exterior siding of the home. Below grade level, and for a minimum distance of six (6) inches above finish grade, the materials shall be unaffected by decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards. The siding or skirting shall be ventilated by openings, which shall have a net area of not less than one and one-half (1½) square feet for each twenty five (25) linear feet of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not larger than one half (½) inch in any dimension. The underfloor area shall be provided with an eighteen inch by twenty four inch minimum size access panel, which shall not be blocked by pipes, ducts or other construction interfering with the accessibility of the underfloor space, or other approved access mechanism.

Sec. 536-833. Application of this division.

(a) The division has no application to:

(1) Panelized construction and modular components of structures;

(2) Recreational vehicles such as land cruisers and travel trailers that are on wheels, capable of being moved and not suitable for permanent residential occupancy;

(3) Factory constructed buildings that:

a. Were located for use as dwellings in Marion County prior to July 1, 1982;

b. Have been actually used as dwellings without significant interruption since a date prior to July 1, 1982; and

c. Have not been moved to another location on July 1, 1982, or after;

(4) Factory constructed buildings that are located in a mobile home park licensed by the Indiana State Board of Health.

~~(b) The intent of this division is to recite and impose set up, underfloor space enclosure and utility connection requirements for factory constructed buildings used as a dwelling that are in addition to other federal, state and local government requirements including building, health and zoning requirements. This division shall not be interpreted as authorizing location or use of factory constructed buildings for dwelling purposes on the sole basis of compliance with requirements set forth in this division.~~

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

Proposal No. 698, 2001 was retitled GENERAL ORDINANCE NO. 2, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 2, 2002

PROPOSAL FOR A GENERAL ORDINANCE to amend the zoning ordinances of the "Revised Code of the Consolidated City and County" to reflect the consolidation of the department of public works and the department of capital asset management into one (1) department under the name of "department of public works," to reflect the reorganization of the division of permits of the department of metropolitan development under the new name "division of compliance," and to make corresponding technical corrections.

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

SECTION 1. Section 730-301 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 730-301. Application for Improvement Location Permit.

Application for Improvement Location Permits shall be made upon forms prescribed by the Commission, shall include a legal description of the lot, and shall be accompanied by the following:

(1) *Required site plan.* An accurate site plan in duplicate, drawn to scale, showing:

a. Location of right-of-way line or lines of all streets, alleys and easements located adjacent to or within the lot. Location of centerline of all streets and dimension to right-of-way line(s).

b. Location and dimensions of private drives and interior access roads, including connection to public streets and proposed driveway entrances and exits.

c. Names of all adjacent streets, private drives and interior access roads.

d. Address of proposed structure or use, as assigned by the Department of Metropolitan Development.

e. The lot and dimensions thereof.

f. Setbacks, minimum required front, side and rear yards.

g. Existing structures (location, dimensions to lot lines and size), except structures to be razed prior to or contemporaneously with construction pursuant to the permit.

h. Proposed location of structure(s) on lot, indicating dimensions to all lot lines.

i. Accurate dimensions of structure(s) proposed.

j. Signs, including location, dimensions to lot lines, type and size.

k. Size, height, and location of landscaping, screens, walls, fences (when required by ordinance or grant of variance).

l. Off-street parking area (when required by ordinance or grant of variance), including dimensions or parking spaces, driveways and maneuvering aisles.

m. Off-street loading area (when required by ordinance or grant of variance), including dimensions.

(2) *Other required information, plans, exhibits, evidence of submission of plans to other governmental agencies.*

a. Any other information, plans or exhibits required by or to indicate compliance with applicable zoning ordinances, this article, covenants, commitments and conditions of grants of variance.

b. Any other applicable information, plans or exhibits required by the Improvement Location Permit form, including but not limited to:

1. Evidence of the applicant's submission of required plans to the ~~Indianapolis Department of Capital Asset Management (DCAM)~~ division of compliance.

2. Evidence of the applicant's submission of a required drainage plan to the ~~Indianapolis DCAM~~ division of compliance. Provided, however:

i. ~~At the request of the DCAM,~~ The Improvement Location Permit issuance may be withheld for a period not to exceed five (5) business days if in the opinion of the ~~DCAM~~ Administrator commencement under such plan may result in a hazard to the public health, safety or general welfare.

ii. If the ~~DCAM~~ division of compliance approves such plan, or at the expiration of such five (5) days has neither approved nor disapproved the plan, the permit shall be issued.

iii. If the ~~DCAM~~ division of compliance disapproves the plan, the permit shall not be issued except in accordance with paragraph iv.

iv. In the event of disapproval of the drainage plan by the ~~DCAM~~ division of compliance, a written statement of the reasons for disapproval shall be provided to the Administrator and to the applicant. The Administrator may then authorize issuance of the Improvement Location Permit if the applicant shows an immediate hardship will accrue if such permit is not issued, the applicant covenants to comply with the requirements of the ~~DCAM~~ division of compliance regarding drainage, and the Administrator, upon consultation with the ~~DCAM~~ division of compliance, determines that proceeding with construction would not result in a hazard to the public health, safety or general welfare.

SECTION 2. Section 730-307 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 730-307. 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 ~~neighborhood and development services~~ division of compliance or his/her appointed representative.

Alteration. Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

Antenna. A device that is designed to receive:

(1) Direct broadcast satellite service, including direct-to-home satellite services; or

(2) Video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or

(3) Television broadcast signals.

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.

Division of compliance. The division of compliance of the department of metropolitan development.

Erect. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

Fence. A type of structural barrier usually made of posts supporting such items, by way of example, as chain link, wood pickets, lattice-work, and similar items.

Frontage (street frontage). The line of contact of a property with the street right-of-way along a lot line.

Mini-barn. A freestanding, completely enclosed, accessory building constructed of stone, brick, metal or wood designed with a rural character and intended for the storage of personal property solely of the occupants of the primary use on the lot (see also shed).

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.

Right-of-way, private. Specific and particularly described strip of privately held land, property, or interest therein devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the office of the Marion County Recorder.

Right-of-way, public. Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, officially recorded by the office of the Marion County Recorder.

Shed. A freestanding, completely enclosed, accessory building, designed and intended for the storage of personal property solely of the occupants of the primary use on the lot (see also mini-barn).

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.

Site plan. The development 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 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, center lines of rights-of-way, and dimensions.

Street, private. A privately held right-of-way, with the exception of alleys, essentially open to the sky and open for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking spaces, and the like.

Street, public. A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and the like.

Structural barrier. A physical structure, such as a fence, wall, or railing, that forms a boundary of, or enclosure to, a property or acts as a division between properties.

Structure. For purposes of this article, a "structure," for which an Improvement Location Permit shall be required, shall include any building, sign or other structure, constructed or erected, the use of which requires a more or less specific location upon the ground, whether permanently affixed to the ground, temporary or mobile. For purposes of this article, an underground storage tank also shall be considered a structure for which an Improvement Location Permit shall be required within the W-1 and W-5 districts of Chapter 735, Article VIII of this Code.

Thoroughfare plan. 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.

Underground storage tank. The definition of an underground storage tank shall be as defined in Chapter 735, Article VIII of this Code.

SECTION 3. Section 730-401 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, to read as follows:

Sec. 730-401. Exceptions.

(a) The Administrator of the division of planning ~~and zoning~~ of the Department of Metropolitan Development shall make a determination of EXCEPTION to the above underground utility line regulations as applied to any specific land area, upon sufficient evidence that the underground location of utility lines therein would be undesirable, infeasible, unnecessary or inappropriate because of the size, design, number of units or character of the proposed development, its relationship to existing or planned adjacent uses, or other relevant planning considerations of land use, location, site design, physical or environmental conditions, aesthetics, economics or technology.

(b) Such determination of EXCEPTION shall be made upon petition by the owner(s) of fifty (50) percent or more of the subject land area and/or by the utility. The Administrator shall furnish notice of his determination or denial of EXCEPTION to the petitioner(s) and the utility.

The Administrator's determination or denial of EXCEPTION shall be subject to the filing of an appeal within ten (10) days from the date thereof, by any aggrieved person, to the Metropolitan Development Commission. Upon appeal, the Commission shall consider the petition for EXCEPTION de novo.

No public or individual notice of such petition for EXCEPTION or appeal to the Commission shall be required.

SECTION 4. Section 730-501 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 730-501. Definitions.

For purposes of this article, the following definitions shall be applied:

Administrator means the Administrator of the Division of ~~Development Services~~ Compliance of the Department of Metropolitan Development of the Consolidated City of Indianapolis.

Designated enforcement entity means the Metropolitan Development Commission of Marion County, Indiana.

Inoperable motor vehicle means:

(1) A motor vehicle from which there has been removed the engine, transmission or differential or that is otherwise partially dismantled or mechanically inoperable; or

(2) Any motor vehicle which cannot be driven on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

Inspectors means employees of the division of ~~development services~~ compliance authorized by the Administrator to enter, examine and survey all lands within Marion County to accomplish the enforcement of all zoning ordinances and land use regulations of Marion County.

Land use petition means a rezoning petition, variance petition, approval petition, special exception petition, or any other petition permitted by the rules of procedure adopted by the Metropolitan Development Commission of Marion County or the Metropolitan Board of Zoning Appeals.

Site improvement means the erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing or remodeling of any new or existing structure or any part thereof; any activity for which an Improvement Location Permit is required.

Zoning districts mean the districts depicted by the comprehensive zoning maps of Marion County, Indiana.

SECTION 5. Section 731-102 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 731-102. Definitions.

The words in the text ~~or illustrations~~ of this ~~ordinance~~ article and Article II of this chapter shall be interpreted in accordance with the definitions set forth below. ~~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.~~

(1) *Abut*: To physically touch or border upon; or to share a common property line.

(2) *Access:* The way by which vehicles shall have ingress to and egress from a land parcel or property and the either street fronting along said property or parcel or an abutting alley.

(3) *Access drive:* That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property. (See Diagram A [not included herein].)

(4) *Accessory:* A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.

(5) *Administrator:* Administrator of the Division of ~~Development Services~~ Planning or his/her appointed representative.

(6) *Agricultural enterprise:* The land use of farming, cultivation of crops, dairying, pasturage, horticulture, floriculture, viticulture, animal and poultry husbandry, with the necessary, accompanying accessory use(s), building(s), or structure(s) for housing, packing, treating, or storing said products.

(7) *Alley:* Any 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(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from said lot(s).

(8) *Alteration:* Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

(9) *Antenna.* A device that is designed to receive:

a. Direct broadcasts satellite service, including direct-to-home satellite services; or

b. Video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or

c. Television broadcast signals.

(10) *Attached multifamily dwelling:* See "Dwelling, multifamily attached."

(11) *Awning:* A roof-like cover, often of fabric, metal or glass designed and intended to either protect from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or a similar feature.

(12) *Balcony, exterior:* An unenclosed platform structure supported by and projecting from the exterior side of a building gaining sole access from said building, and designed and intended for either decorative purposes or lounging, dining, and similar activities.

(13) *Basement:* That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half or more of its interior vertical height clearance below grade level.

(14) *Bathhouse:* An accessory building of one or more rooms not open to the public, designed and intended for exclusive use by occupant(s) of the primary use and their guest(s) as dressing room(s) and may or may not include sanitary facilities.

(15) *Bed and breakfast:* The commercial leasing of bedroom(s) for guest(s) within a private, owner-occupied, one- or two-family dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee. Such leasing may also provide for the temporary accommodation of daytime meetings or receptions for guests for a fee. Such leasing caters largely to tourists and the travelling public.

(16) *Boarding house:* A community facility, other than hotels, motels, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants thereof, is provided for a fee.

(17) *Buildable area:* The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met. (See Diagram B [not included herein]).

(18) *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.

(19) *Building area:* The total ground area, within the lot or project, covered by the primary structure, plus garages, carports and other accessory structures which are greater than eighteen (18) inches above grade level, excluding fences and walls not attached in any way to a roof (See Diagram B [not included herein].)

(20) *Cabana:* Same as "Bathhouse."

(21) *Canopy:* A rooflike cover, often of fabric, metal, or glass on a support, which is supported in total or in part, from the ground providing shelter over a doorway or outside walk.

(22) *Carport:* A roofed structure designed and intended to shelter the automotive vehicle(s) of the premises' occupant(s) or owner(s), with at least one side permanently open to the weather.

(23) *Child, per IC 12-7-2-28:* An individual who is less than eighteen (18) years of age.

(24) *Child care, per IC 12-7-2-28.2:* A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

(25) *Child care home, per IC 12-7-2-28.6:*

a. A residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian or other relative) at any time receive child care from a provider:

1. While unattended by a parent, legal guardian, or custodian;

2. For regular compensation; and

3. For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

b. The term includes:

1. A class I child care home;

2. A class II child care home; and

3. Exempt licenses, per IAC 3-1.1-26.

(26) *Class I child care home, per IC 12-7-2-33.7:*

a. A child care home that serves any combination of full-time and part-time children, not to exceed twelve (12) children at any one (1) time.

b. A child:

1. For whom the provider of care is a parent, stepparent, guardian, custodian or other relative; and

2. Who is at least seven (7) years of age;

shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

(27) *Class II child care home, per IC 12-7-2-33.8:*

a. A child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time.

b. A child:

1. For whom the provider of care is a parent, stepparent, guardian, custodian, or other relative; and

2. Who is at least seven (7) years of age;

shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

(28) *Cluster:* A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features in perpetuity.

(29) *Cluster subdivision:* A form of development for single-family residential subdivisions that permits a reduction in the minimum lot: area, width, setback and open space requirements and to concentrate development in specific areas of the subdivision while also maintaining the same overall density permitted under a conventional subdivision in a given zoning district, and, the remaining land area is devoted to open space, or recreational areas in perpetuity.

(30) *Collector street:* See "Street, collector."

(31) *Commission:* The Metropolitan Development Commission of Marion County, Indiana.

(32) *Commitment:* An officially recorded agreement concerning and running with the land as recorded in the office of the Marion County Recorder.

(33) *Comprehensive plan:* The applicable comprehensive or master plan for Marion County, Indiana, or a segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to ~~Chapter 283 of the Acts of the Indiana General Assembly for 1955~~ IC 36-7-4-500 Series, and all acts amendatory thereto.

(34) *Condition:* An official agreement between the municipality and the petitioner concerning the use or development of the land as specified in the letter of grant of a variance, special exception or approval petition as signed by the Administrator.

(35) Condominium: A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis.

(36) *Corner lot:* See "Lot, corner."

(37) *Covenant:* A private legal restriction on the use of land contained in the deed, plat and other legal documents pertaining to the property.

(38) *Covenant, parol:* A verbal, binding agreement, made at a public parol hearing, restricting the use of the land.

(39) *Covered open space:* See "Open space, covered."

(40) *Crown of the street:* The highest point of pavement between the existing curb lines of a street cross-section, most often at the center line.

(41) *Cul-de-sac:* See "Street, cul-de-sac."

(42) *Curb cut:* The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street. (See Diagram A [not included herein].).

(43) *Curb line:* A line located on either edge of the pavement, but within the right-of-way line. (See Diagram A [not included herein].)

(44) *Deck:* A ground-supported, unenclosed, accessory platform structure, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised eighteen (18) inches or more above grade level designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.

(45) *Double dwelling:* Same as "Dwelling, two-family."

(46) *Drip line:* The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.

(47) *Driveway:* Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line. (See Diagram A [not included herein].)

(48) *Duplex:* Same as "Dwelling, two-family."

(49) *Dwelling, manufactured home:* A unit which is fabricated in one 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.

(50) *Dwelling, mobile:* A movable or portable unit fabricated in one 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 family, and erected or located as specified by Chapter 8, Article III, Division IV of the Code of Indianapolis and Marion County, and which was either:

a. 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,

b. 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.

(51) *Dwelling, modular home:* A unit which is fabricated in one 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, designed for occupancy by one family unit. Every module shall bear the seal certified that it was built in compliance with Indiana Public Law 360. The unit must have been built in compliance with the CABO One and Two-Family Dwelling Code.

(52) *Dwelling, multifamily:* See "Dwelling, attached multifamily."

(53) *Dwelling, attached multifamily:* A building for residential purposes with three (3) or more dwelling units, having common or party 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).

(54) *Dwelling, single-family:* A site-built building for one dwelling unit.

(55) *Dwelling, two-family:* A building designed originally for residential occupancy by two (2) families living independently of each other, which contains two, legally complete, dwelling units. Each unit in a two-family dwelling is completely separated from the other by either; a)

an unpierced wall extending from ground to roof; or, b) an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

(56) *Dwelling unit:* One 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 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.

(57) *Erect:* Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

(58) *Excavation:* The breaking of ground, except common household gardening, ground care and agricultural activity.

(59) *Family:* One or more human beings related by blood, marriage, adoption, foster care 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.

(60) *Fence.* A type of structural barrier usually made of posts supporting such items, by way of example, as chain link, wood pickets, lattice-work, and similar items.

(61) *Finished floor area:* That portion of floor area constructed, completed and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, sanitary, or combination thereof. A floor area or portion thereof used only for storage purposes and not equipped with the facilities previously identified shall not be considered finished floor area.

(62) *Floor area:* For one- and two-family dwelling units, the sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or the center line(s) of party walls separating such buildings or portions thereof. The floor area of a building shall exclude all areas with a vertical height clearance less than seventy-eight (78) inches, exterior open balconies, and open porches.

For attached or detached multifamily dwelling(s), the sum of all horizontal surface areas of all floors of all roofed portions of all buildings enclosed by and within the surrounding exterior walls or roofs, or the center line(s) of party walls separating such buildings or portions thereof.

However, this does not include the following:

a. All areas with a vertical height clearance less than seventy-eight (78) inches;

b. All exterior open balconies, and open porches;

c. Floor or basement floor area devoted to off-street parking or loading facilities, including aisles,
ramps, and maneuvering space;

d. Floor or basement floor area provided for recreational uses, available to occupants of two (2) or more living units within a project; or

e. Basement floor area provided for storage facilities, allocated to serve individual living units within a project.

(63) *Floor area ratio (FAR):* The aggregate floor area of all stories of all buildings within the project divided by the land area.

(64) *Front lot line:* See "Lot line, front."

(65) *Front yard:* See "Yard, front."

(66) *Frontage:* The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.

(67) *Frontage, public street:* The line of contact of abutting property with the public street along the front lot line which allows unobstructed direct access to the property.

(68) *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 said 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, and by prohibiting both crossings at grade and direct driveway connections.

(69) *Game court:* A type of recreation facility which consists of an unpaved or paved, accessory, surface area of ground open and essentially unobstructed to the sky, on the same lot as the primary structure, designed and intended for the playing of a recognized sport as an accessory, recreational activity by the occupants and guests of the primary structure, which may include fencing, screening, nets, goals, or other necessary appurtenances required for the recreational use.

(70) *Garage, residential:* A building accessory to a residential use, or an enclosed area attached or integrated into a residential building, which is primarily designed and intended to be used for the storage of the private vehicle(s) for the occupant(s) of said residence and is not a separate commercial enterprise available to the general public.

(71) *Gazebo:* A roofed, ground-supported, unenclosed, accessory platform structure, usually constructed of wood, stone, brick, or metal designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.

(72) *Grade, established street:* The crown elevation of a street pavement level abutting the property as fixed by the appropriate government agency(ies).

(73) *Grade level (adjacent ground elevation):* The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from said walls, between said walls and a line ten (10) feet away from and paralleling said walls.

(74) *Gross acre:* A horizontal measure of land area equal to forty-three thousand five hundred sixty (43,560) square feet.

(75) *Ground cover:* Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, or a similar feature.

(76) *Ground floor:* That story which contains finished floor area closest to but not below grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.

(77) *Group home:* A residential facility for the developmentally disabled (as defined by IC 12-7-2-166) or a residential facility for the mentally ill (as defined in IC 12-7-2-167), licensed by the Community Residential Facilities Council, or its successor in authority in accordance with a program described in:

a. IC 12-11-1 (residential facility for the developmentally disabled); or

b. IC 12-22-2-3(2) through 12-22-2-3(6) (residential facility for the mentally ill).

(78) *Handicap ramp:* Same as "Pedestrian ramp."

(79) *Hard-surfaced:* Quality of an outer area being solidly constructed of pavement, brick, paving stone, tile, wood, or a combination thereof.

(80) *Hedge:* A row or rows of closely planted shrubs, bushes, or combination thereof creating a vegetative barrier.

(81) *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:

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

b. An elevation ten (10) feet higher than the lowest grade when said sidewalk or ground surface is more than ten (10) feet above the lowest grade.

(82) *Heliport:* An area of land, water or structural surface which is used, or intended for use, for the lawful landing and takeoff of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and auxiliary facilities, such as, parking areas, waiting rooms, fueling, storage and maintenance equipment areas.

(83) *Helistop:* An area of land, water or structural surface which is used, or intended for use, for the landing and takeoff of helicopters, without the provision of fueling, repair, maintenance or storage facilities.

(84) *Home occupation:* An occupation or business activity carried on within:

a. A legally established dwelling unit, or;

b. An associated accessory structure (in those cases where the business activity is a legally established nonconforming occupation which occupies such associated accessory structure), by a resident of said dwelling, where the occupation or business activity is clearly incidental and subordinate to the residential use and does not alter the character thereof.

(85) *Hospital:* An institution housed in a building, group of buildings or portion thereof, providing primary health services and psychological, medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient or training facilities.

(86) *Hotel:* Any building or group of buildings, containing guest rooms without direct access to the outside, designed or intended to be occupied for sleeping purposes by guests for a fee with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the travelling public.

(87) *Interior access drive:* A minor, private or public street providing access within the boundaries of a project beginning at the required setback line. (See Diagram A [not included herein].)

(88) *Interior access driveway:* Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels. (See Diagram A [not included herein].)

(89) *Land area:* The total horizontal area within the project boundaries, plus the area of half of any abutting alley or street rights-of-way.

(90) *Landscaping:* Any combination of sculpture, fountains, pools, and walkways with substantial living vegetation, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained and groomed to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion, drainage and wind control.

(91) *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.

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

(93) *Livability space:* The open space minus the vehicle area within the open space.

(94) *Livability space ratio (LSR):* The livability space divided by the floor area.

(95) *Local street:* See "Street, local."

(96) *Lot:* A piece, parcel, plot or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and occupied or intended for occupancy by a use permitted in the zoning ordinances for Marion County, Indiana, including one or more main buildings, accessory uses thereto and the required yards as provided for the zoning ordinances of Marion County, Indiana and may consist of:

a. A single lot of record; or

b. A portion of a lot of record; or

c. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

A lot may or may not coincide with a lot of record. For purpose of this definition, the ownership of a lot is further defined to include:

a. The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;

b. A contract vendee;

c. A long-term lessee (but only if the lease is recorded among the records of the County Recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit). (See Diagram C [not included herein].)

(97) *Lot area:* The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street or easement for surface access ingress or egress into the subject lot or adjoining lots.

(98) *Lot, corner:* A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. (See Diagram C [not included herein].)

(99) *Lot, through:* A lot which fronts upon two (2) parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot. (See Diagram C [not included herein].)

(100) *Lot line:* The legal boundary of a lot as recorded in the office of the Marion County Recorder.

(101) *Lot line, front:* The lot line(s) separating the lot from street rights-of-way; in the case of a corner lot, both lot lines separating the lot from 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 of the primary structure shall be considered the front lot line. (See Diagram B [not included herein].)

(102) *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 with the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot line, any lot line which intersects with a front lot line shall not be considered a rear lot line.

(103) *Lot line, side:* Any lot line not designated as a front or rear lot line.

(104) *Lot of record:* A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the Office of the Recorder of Marion County, Indiana. A lot of record is not necessarily a piece, parcel, plot or tract designated or used for single ownership.

(105) *Main floor area:* The area of a horizontal plane fully bound by the exterior walls of the primary building or structure of the floor surface at or above grade level exclusive of vent shafts, decks, garages, uncovered or covered open space.

(106) *Major livability space:* The total area in a project provided for outdoor recreation, relaxation, amusement, pleasure and for similar use within the project, which area may or may not be improved; however, all livability space countable for purposes of computing the major livability space ratio shall be at least twenty (20) feet away from any ground floor residential wall containing one or more windows and shall have a minimum linear dimension averaging eighty (80) feet, except that an area of lesser dimension is countable if:

a. The total required major livability space is less than six thousand four hundred (6,400) square feet, or

b. The shape or topography of the site alone prevents compliance with the minimum dimensions.

(107) *Major livability space ratio (MLSR):* The total major livability space of countable size divided by the aggregate floor area.

(108) *Manufactured home:* See "Dwelling, manufactured home."

(109) *Marginal access street:* See "Street, marginal access."

(110) *Mini-barn:* A freestanding, completely enclosed, accessory building constructed of stone, brick, metal or wood designed with a rural character and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also "Shed.")

(111) *Minor emergency repairs:* Those maintenance repairs necessitating immediate solution yet not posing an immediate life safety hazard, nor altering the existing character of the structure (See "Alteration").

(112) *Mobile dwelling:* See "Dwelling, mobile."

(113) *Mobile dwelling project:* See "Project, mobile dwelling."

(114) *Modular home:* See "Dwelling, modular home."

(115) *Motel:* Any building or group of buildings, containing guest rooms, with at least twenty-five (25) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building(s), designed or intended to be occupied for sleeping purposes by guests for a fee and where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the travelling public.

(116) *Mulch:* A protective covering of vegetative substances placed around plants to prevent evaporation of moisture, freezing, and to control weeds.

(117) *Multifamily dwelling:* See "Dwelling, multifamily."

(118) *Off-street:* A location completely on private land, and completely off of public rights-of-way, alleys and any interior surface access easement for ingress and egress.

(119) *Open porch:* An unenclosed structure, open to the sky, supported from the ground and attached to or a part of a building at the area of entrance or exit to said building facilitating access to said building from the ground.

(120) *Open space:* The total horizontal area of all uncovered open space plus one-half of the total horizontal area of all covered open space.

(121) *Open space, covered:* All exterior space within the project, which is open and exposed to the weather, but not open above to the sky. It includes porches, carports, covered exterior balconies and exterior spaces covered by portions of buildings.

(122) *Open space, uncovered:* In D-6, D-6II, D-7, D-8, D-9, D-10 and D-11 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II and D-12 districts; and D-8 single- and two-family dwellings: the lot area, minus the building area.

(123) *Open space ratio (OSR):* The open space divided by the floor area.

(124) *Parking area:* An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space. (See Diagram A [not included herein].)

(125) *Parking space:* An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle. (See Diagram A [not included herein].)

(126) *Part-time:* A period of at least twenty-five (25) percent less than a regular or customarily full schedule of a specific activity, such as employment.

(127) *Partial 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 said property(ies), including the location and connection with public streets, is controlled by public authority. Partial control of access gives preference to through vehicular traffic movement to a degree that, in addition to access connections with selected public streets, there may be crossings at grade and some driveway connections.

(128) *Patio:* A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one side open to the weather and essentially unobstructed to the sky. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles. (See also "Deck.")

(129) *Patio, covered:* A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one side open to the weather and permanently roofed or similarly covered. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles.

(130) *Paved-stand:* A permanent area specifically designed and intended for the location, securing, and use of a mobile dwelling on a non-temporary basis encompassing completely the area immediately below or covered by such dwelling including necessary plumbing, power, and other utility installations. The mobile dwelling's foundation, consisting of runners, ribbons or piers, usually made of concrete for the purpose of blocking the dwelling, are within this area.

(131) *Pavement:* A layer of concrete, asphalt or coated macadam used on street, sidewalk, or airport surfacing.

(132) *Paving:* See "Pavement."

(133) *Pedestrian ramp:* An inclined access opening along the curbline at which point pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, may enter or leave the street; or, an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, access from the ground to an elevated surface.

(134) *Perimeter yard:* See "Yard, perimeter."

(135) *Permitted use:* Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

(136) *Plat:* An officially recorded map, as recorded in the office of the Marion County Recorder, or a map intended to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

(137) *Porch:* A roofed structure with at least one side exposed to the weather, supported from the ground and attached to or part of a building at the area of entrance or exit to said building.

(138) *Porte-cochere:* A roofed, sheltering structure supported from the ground and attached to or a part of a building, which projects over an entrance/exit, walkway, driveway, or similar feature.

(139) *Primary building:* The building in which the permitted primary use of the lot is conducted.

(140) *Principal homestead:* The dwelling unit in which the primary users of the agricultural enterprise reside.

(141) *Project:* A lot or parcel of contiguous land to be developed for a use or uses permitted in the D-6, D-6II, D-7, D-8, D-9, D-10, D-11 dwelling districts, which at the time of development is under one ownership or control, and subsequently may be subdivided, developed, or conveyed into smaller lots or parcels.

(142) *Project boundaries:* The perimeter lot lines encompassing the entire project as indicated in the Office of the Marion County Recorder.

(143) *Project, mobile dwelling:* 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 said mobile dwelling project or, an area of contiguous land separated only by a street, that is subdivided and contains individual lots which are 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.

(144) *Public street frontage:* See "Frontage, public street."

(145) *Rear yard:* See "Yard, rear."

(146) *Recreation facility:* A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.

(147) *Recreation facility, commercial:* A recreation facility operated as a for profit business and open to the public for a fee.

(148) *Recreation facility, personal:* A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests without a fee.

(149) *Recreation facility, private:* A recreation facility operated by a nonprofit organization, and open only to bona fide members and guests of such nonprofit organization.

(150) *Recreation facility, public:* A recreation facility operated by a governmental agency and open to the general public.

(151) *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.

(152) *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.

(153) *Residential in character:* Possessing the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height, bulk, materials, detailing and similar features.

(154) *Right-of-way:* Specific and particularly described land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage of pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.

(155) *Right-of-way, public:* Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

(156) *Right-of-way, private:* Specific and particularly described strip of privately held land devoted to and subject to use for general transportation purposes or conveyance of utilities whether or

not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

(157) *Setback:* The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line. (See Diagram B [not included herein].)

(158) *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. (See Diagram B [not included herein].)

(159) *Shed:* A freestanding, completely enclosed, accessory building, designed and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also "Mini-Barn.")

(160) *Shrub:* A woody plant of relatively low height branching from the base not exceeding ten (10) to twelve (12) feet in height.

(161) *Side yard:* See "Yard, side."

(162) *Sidewalk:* A hard-surfaced walk or raised path along and paralleling the side of the street for pedestrians.

(163) *Single-family dwelling:* See "Dwelling, single-family."

(164) *Skirting*: The rigid physical attachments to a mobile dwelling designed and intended to completely screen, shelter, and protect the unit's base and entire area between the unit's floor surface and the ground surface, which includes, but not limited to, all electrical and plumbing conduits, insulation material, and undercarriage.

(165) *Site plan:* The development plan, drawn to scale, for one or more lots on which is shown the existing and proposed location and conditions of the lot as required by ordinance, in order that an informed decision can be made by the approving authority.

(166) *Storage area:* An area designated, designed and intended for the purpose of reserving personal property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

(167) *Storage room:* An enclosed area integrated into and sharing common or party wall or walls within a primary building, while designed and intended for the purpose of reserving personal property for a future use.

(168) *Story:* That part of a building, with an open height of no less than seventy-eight (78) inches, except a mezzanine, included between the upper surface of one floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a story only if it provides finished floor area.

(169) *Street, collector:* A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., 35 mph) between local streets, collectors, and arterials with direct access to abutting property(ies). (See Diagram D [not included herein].)

(170) *Street, cul-de-sac:* A street having only one open end and being permanently terminated by a vehicle turn around. (See Diagram D [not included herein].)

(171) *Street, expressway:* A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at relatively high speeds (e.g., 45 mph) with partial control of access. The function of an expressway is primarily to move traffic rather than to serve abutting property(ies). Access control on an expressway is characterized by medians, marginal access streets and selective intersection location.

(172) *Street, freeway:* A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at high speeds (e.g., 55 mph) with full control of access. The primary function of a freeway is the movement of traffic, particularly long trips made within or through the county.

(173) *Street, local:* A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., 20 to 30 mph) within the immediate geographic area with direct access to abutting property(ies). (See Diagram D [not included herein].)

(174) *Street, marginal access:* A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies). (See Diagram D [not included herein].)

(175) *Street, parkway:* Any street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, with partial control of access thereto, the adjoining land on one or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and thoroughfare plan. Partial control of access to a parkway permits access connections only at street intersections.

(176) *Street, primary arterial:* A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite and channelize high volumes of vehicular traffic movement at moderate speeds (e.g., 35 to 45 mph) between arterials, expressways, and freeways with partial control of access. The function of a primary arterial is primarily to move traffic rather than to serve abutting property(ies).

(177) *Street, private:* A privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and similar features.

(178) *Street, public:* A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

(179) *Street, secondary arterial:* A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite medium to high volumes of vehicular traffic movement at moderate speeds (e.g., 35 to 45 mph) between collectors, arterials, expressways, freeways, and abutting property(ies) with partial control of access. Secondary arterials carry a higher percentage of short trips than do primary arterials.

(180) *Structural barrier.* A physical structure, such as a fence, wall, or railing, that forms a boundary of, or enclosure to, a property or acts as a division between properties.

(181) *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.

(182) *Subdivision:* The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development, provided however, that the division of land into parcels of more than three (3) acres, not involving any new streets or easements of access, and the transfer or exchange of parcels between adjoining landowners, if such transfer or exchange does not create additional building lots, shall not constitute a subdivision for purposes of this ordinance.

(183) *Temporary use:* An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

(184) *Terrace:* An open, raised bank or banks of earth having vertical or sloping side(s) and a horizontal top.

(185) *Thoroughfare:* A street primarily serving thorough vehicular traffic, including freeways, expressways, primary thoroughfares, and secondary thoroughfares as designated by the thoroughfare plan. ~~, adopted as 71-AO-4, as amended.~~

(186) *Thoroughfare plan:* The applicable segment of the comprehensive or master plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to Chapter 283 of the Acts of the Indiana General Assembly for 1955, and all acts amendatory thereto, which sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary thoroughfares, secondary thoroughfares, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

(187) *Through lot:* See "Lot, through."

(188) *Total car ratio (TCR):* The total number of parking spaces divided by the number of dwelling units.

(189) *Total floor area:* The aggregate floor area of all stories of the primary buildings or structures.

(190) *Trash enclosure:* An accessory structure enclosed on all sides, possessing a solid, securable door or gate for access designed and intended to completely screen and protect waste receptacles from view on all sides, and to prevent waste debris from dispersal outside the receptacles or enclosure.

(191) *Tree survey:* An inventory of all trees on a lot or project prior to any site development preparation, identifying species, location, caliper, and drip line of trees.

(192) *Two-family dwelling:* See "Dwelling, two-family."

(193) *Uncovered open space:* In D-6, D-6II, D-7, D-8, D-9, D-10, D-11 and D-12 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-8, and D-12 districts: the lot area, minus the building area.

(194) *Underground storeroom:* An accessory structure which is at least seventy-five (75) percent subterranean, utilized for storage of personal property or a temporary shelter for people, such as a fallout shelter.

(195) *Unit:* A single, complete entity.

(196) *Usable roof area:* The total roof area, within the project or residential buildings, garages and accessory buildings which has been improved for outdoor uses of occupants. Roof areas used for the storage of automotive vehicles are included.

(197) *Vehicle area:* Uncovered or covered area used for vehicular traffic, maneuvering and parking. Included are all parking areas, driveways, interior access drives and rights-of-way of all streets and alleys within the project, plus the area of half of any abutting alley or street rights-of-way.

(198) *Walkway:* A hard-surfaced walk or raised path for pedestrians.

(199) *Yard, front:* An open space unobstructed to the sky, extending 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. (See Diagram B [not included herein].)

(200) *Yard, interior:* An open space unobstructed to the sky, extending fully across the mobile dwelling site while situated between the edge of pavement of the street or interior access drive and a line paralleling thereto, which passes through the nearest point of any building or structure and terminates at the intersection of the individual mobile dwelling site's boundary lines.

(201) *Yard, perimeter:* A required yard of a project, in addition to front, rear and side yards, situated between and extending along the project boundary and an interior line paralleling thereto. The width of said yard shall be determined by the applicable zoning district zoning classification of the ordinance. (See Diagram E [not included herein].)

(201) *Yard, rear:* An open space unobstructed to the sky extending fully across the lot situated between the rear lot line and a parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B [not included herein].)

(202) *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. (See Diagram B [not included herein].)

SECTION 6. Section 731-200 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 731-200. General dwelling district regulations.

The following regulations shall apply to all land within the dwelling districts.

(a) After the effective date of this ordinance:

(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 ordinance. Signs, however, are regulated by ~~the Sign Regulations of Marion County, Indiana, 71-AO-4, as amended~~ Chapter 734 of this Code.

(2) A lot may be divided into two (2) or more lots, provided that all resulting lots and all buildings thereon shall comply with all of the applicable provisions of the Dwelling Districts Zoning Ordinance of Marion County. If such a lot, however, is occupied by a nonconforming building, such lot may be subdivided provided such subdivision does not create a new noncompliance or increase the degree of noncompliance of such building.

(3) 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 ordinance with the exception of signs, which are regulated by ~~the Sign Regulations of Marion County, 71-AO-4, as amended~~ Chapter 734 of this Code, and of the following provisions:

a. *Restoration of legally established nonconforming uses, structures, buildings.* Legally established nonconforming uses and structures or buildings may be restored to their original dimensions and conditions if damaged or partially destroyed by fire or other disaster provided the damage or destruction does not exceed two-thirds of the gross floor area of the building, structure or facilities affected; except, however, all land within any flood control district shall, also, be subject to the requirements of Section 735-300 through Section 735-310 of this Code. ~~be bound by the forty (40) percent limitation of section 2.00.B.2 of the Flood Control Districts Zoning Ordinance of Marion County, Indiana (71-AO-3, as amended)~~).

b. *Discontinuation of nonconformity.* The lawful nonconforming use or occupancy of any lot, in a dwelling district, existing at the time of the effective date of this ordinance, may be continued as a nonconforming use, but if such nonconforming use is discontinued for one year, any future use or occupancy of said land shall be in conformity with the provisions of this ordinance.

c. *Legally established nonconforming uses; public schools.* Any legally established nonconforming use public elementary, middle, junior high or high school (including any structures, facilities and parking areas accessory thereto) may be converted, enlarged, extended, reconstructed or relocated for such public school use on the same lot or parcel as it existed on August 8, 1966, provided such school building, structure, facilities and parking area shall conform to the minimum yard and setback requirements of the applicable dwelling district.

d. *Yard Setback Exceptions:*

1. *Established front setback exception/averaging.* In any block in which an existing front yard depth and setback is established (by existing legally established buildings within a Dwelling District) for more than twenty-five (25) percent of the linear frontage of the block (or a distance of two hundred (200) linear feet in either direction, whichever is the lesser), the minimum required front yard depth and setback for any new building or structure shall be the average of such established front yards if such dimension is less than the minimum required minimum front setback established by this ordinance.

2. *Expansion along an existing, legally established nonconforming front setback line.* The minimum required front setback in any Dwelling District for any existing building, having a legally established front setback which is less than the required setback of the District, shall be modified to permit expansion of such building along its existing established front setback, provided that:

   i. Only a one-time expansion along the legally established nonconforming front setback line shall be permitted; and

   ii. The linear front footage of expansion does not exceed fifty (50) percent of the linear front footage of the original building, and all other requirements of this ordinance are maintained for the expansion. Provided: For both 1. and 2. above, however, in no case shall a building or structure:

      1. Encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana;

      2. Encroach upon any existing right-of-way; or

      3. Encroach into a clear sight triangular areas, as required in section 731-221(c)(1).

~~(3)~~3. *Side and Rear Yard Setback Exceptions.* The minimum side and rear yard setback requirements of the D-S, D-I, D-2, D-3, D-4, D-5, D-5II, and D-8 (for a lot containing a single or a two-family dwelling unit) Districts shall be subject to the following:

   i. *Primary Buildings:* The primary building may be enlarged or extended along a legally established nonconforming side yard between the established front setback line and the established rear setback line of the primary building provided that the linear footage of such enlargement or extension: a. does not exceed fifty (50) percent of the linear footage of the primary building along that side setback line, or b. be a one-time only expansion along the legally established setback line.

   ii. *Detached accessory buildings.*

      1. Legally established, detached, accessory garages may be reconstructed on an existing foundation, even though such reconstruction would not comply with required side or rear yards.

      2. An accessory building may be enlarged or extended along a legally established nonconforming side or rear yard provided that the linear footage of such enlargement or extension: a. does not exceed fifty (50) percent of the linear footage of the accessory building along that side or rear setback line; b. be a one-time only expansion along the legally established setback line; and, c. such enlargement or extension shall not encroach into any required yard other than the existing nonconforming side or rear yard along which the enlargement or extension is occurring.

e. *Lot area, lot width exception.* Any lot recorded or any platted lot recorded prior to the adoption of this ordinance, having less than the minimum lot area or minimum lot width required by the applicable dwelling district regulations of this ordinance for a single-family dwelling, shall be deemed an exception to such minimum lot area and lot width requirement, and a single-family dwelling may be constructed thereon provided all other requirements of this ordinance, including minimum yard and setback requirements, shall be maintained.

f. *Reserved.*

g. *D-6 and D-6II district single-family exception.* In the D-6 and D-6II districts, a single- or two-family dwelling, including accessory structures, may be constructed, erected, enlarged, extended, or reconstructed on any platted lot recorded prior to the adoption of this ordinance which was specifically platted for single-family dwelling purposes. Such

development shall be in accordance with the approved plat, any restrictions thereof, and any commitments resulting from the rezoning of such lot.

(4) *The front setback and minimum front yard requirements of all dwelling zoning districts shall be subject to the following exception for all land within the Town of Meridian Hills, Indiana:* The required front setback and minimum yard requirements applicable to all land within the Town of Meridian Hills, Indiana, however presently zoned, shall be not less than the standards of the class R-1, R-2, and R-3 area districts, respectively, previously applicable thereto as said land was formerly zoned, in accordance with the Meridian Hills Zone Map and section 12 of the Zoning Ordinance of the Town of Meridian Hills, Indiana, General Ordinance No. 1, 1946, prior to the effective date of the comprehensive Dwelling Districts Zoning Ordinance of Marion County, Indiana, Ordinance 66-AO-2, which rezoned and reclassified said land. (Said Zoning Ordinance of the Town of Meridian Hills, Indiana, section 12 and Meridian Hills Zone Map, adopted by the Marion County Council March 28, 1957, as a part of Marion County Council Ordinance No. 8-1957, are hereby incorporated herein by reference).

(5) *Secondary means of escape.* Any secondary means of escape which includes, but is not limited to, fire escapes or similar emergency accesses, shall be located on the rear or side facades of the building or structure. In the case of a building or structure located on a corner lot, the secondary means of escape shall not be located on the facade of any building or structure which has frontage along a public or private street.

(6) *Side yard setback; zero lot line option.* The minimum side yard setback requirements of the D-S, D-1, D-2, D-3, D-4, D-5, and D-5II zoning districts shall be subject to the following exceptions: Any plat of a subdivision submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce the minimum side yard requirement for one side yard of each lot to zero (0) feet provided that:

a. A minimum distance of ten (10) feet shall be required and maintained between all buildings on adjacent lots; and,

b. No windows or doors shall be provided or maintained on that portion of the structure which reduces the required side yard by use of this exception; and,

c. The aggregate side yard(s) is provided on the lot according to the applicable dwelling district regulations; and,

d. An easement, providing for the continual maintenance of that portion of the structure which reduces the required side yard by use of this exception, is provided, recorded and maintained.

(7) *Exceptions to dwelling district development standards for the development of cluster subdivisions.* In any plat of a subdivision recorded after January 1, 1990, in the D-S, D-1, D-2, D-3 and D-4 zoning districts the following exceptions shall apply. Any subdivision, the plat of which is submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, may be developed as a cluster subdivision in accordance with the following:

a. *Purpose.* Cluster subdivisions are intended to allow greater flexibility in design and development of subdivisions, in order to produce innovative residential environments, provide for more efficient use of land, protect topographical features, and permit common area and open space. To accomplish this purpose, the following regulations and exceptions shall apply only to cluster subdivisions.

b. *Exceptions to dwelling district development standards.* Exceptions to the development standards relating to the subdivision's lot size, shape and dimensions may be permitted for individual lots within a cluster subdivision, as follows:

1. *Project area (minimum size of subdivision).* There shall be a minimum of five (5) acres required for the development of a cluster subdivision. The tract of land to be developed shall be in one ownership or shall be the subject of an application filed by the owners of the entire tract. The tract shall be developed as a unit and in the manner approved.

2. *Project density.* The overall maximum density of the proposed cluster subdivision shall remain the same as that permitted by developing the same site area into developable lots in full compliance with the applicable underlying dwelling district regulations and the Subdivision Control Ordinance of Marion County, Indiana.

3. *Sewers.* Attachment to public or semipublic water and sanitary sewer facilities shall be mandatory for development in any cluster subdivision with a minimum lot area of less than twenty-four thousand (24,000) square feet.

4. *Area, width, setback, and open space for individual lots.* Individual lots in a cluster subdivision are exempt from the following development standards of the applicable dwelling district:

   i. Minimum lot area.

   ii. Minimum lot width.

   iii. Minimum lot width at setback.

   iv. Minimum side and rear yard setback regulations. Minimum side and rear yard setback regulations may be modified by the following:

   Setback from any subdivision boundary property lines: Twenty (20) feet.

   The minimum rear yard setback: Fifteen (15) feet.

   The minimum side yard setback shall have a minimum depth in accordance with section 731-200(a)(6), Side yard setback; zero lot line option, with the exception that provision 200 (a)(6)c shall not apply when utilizing the cluster subdivision exception.

   v. The minimum street frontage. Minimum street frontage may be reduced to fifteen (15) feet provided, however, that each individual lot shall have direct access to a public street, and,

   vi. Minimum open space. Individual cluster lots shall have a minimum open space of fifty (50) percent.

5. *Project open space.* The amount of permanent open space created by the development of the site as a cluster subdivision shall be equivalent to, or more than, the total reduction in lot sizes. At least seventy-five (75) percent of the total amount of open space shall consist of tracts of land at least fifty (50) feet wide. The open space created by the development of the site as a cluster subdivision shall be provided in such a manner that it is preserved in its naturally occurring state for passive recreational activities. A subordinate amount of this open space may be developed as a common recreational area. The open space created by the development of the site as a cluster subdivision shall further be provided in such a manner that it is accessible to residents of the subdivision and for maintenance. The open space shall perpetually run with the subdivision and shall not be developed or separated from the cluster subdivision at a later date. Provisions shall be made for continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge.

c. *Procedures for cluster subdivision approval.*

1. The petitioner shall submit two (2) site plans for the property proposed for a cluster subdivision for review and conceptual design approval by the Administrator prior to filing for plat approval.

   i. Site plan 1 shall depict the development of the site in full compliance with all use and development standards of the applicable underlying dwelling district and the Subdivision Control Ordinance of Marion County, Indiana. This site plan will be used to determine the maximum number of developable lots possible on the site and set the density of that development.

ii. Site plan 2 shall depict the development of the site as a proposed cluster subdivision. The density of the overall development shall be no greater than that permitted by the development of the site depicted in site plan 1.

2. The Administrator shall compare the proposed cluster subdivision with the site plan showing the same site developed in compliance with the applicable dwelling district and determine the appropriateness of cluster design for the site.

3. In determining the appropriateness of cluster design for the site, the Administrator shall look for the following attributes:

   i. Protection of unique topographical features on the site, including but not limited to slopes, streams, natural water features.

   ii. Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features.

   iii. Development of common open space and recreational areas accessible to residents of the subdivision including provisions for walkways and bikeways.

   iv. Providing a more efficient use of the land.

   v. Producing innovative residential environments.

   vi. Minimizing the alteration of the natural site features to be preserved through the design and situation of individual lots, streets, and buildings.

   vii. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.

   viii. Relationship to surrounding properties, improvement of the view from and of buildings, and minimizing of the land area devoted to motor vehicle access shall be encouraged through the arrangement and situation of individual lots, buildings, and units.

4. The Administrator shall further review the proposed cluster subdivision to ensure that the proposed cluster development will be constructed, arranged, and operated so as not to interfere with the development and use of neighboring property, in accordance with the applicable district regulations, to include any necessary transition along the perimeter of the development with adjacent single-family zoning districts.

5. If upon review, the Administrator, based upon the attributes noted above, determines that the proposed cluster subdivision is not appropriate for the site, the Administrator shall inform the petitioner in writing of the determination. The petitioner may, within five (5) business days, appeal the Administrator's decision by filing an approval petition before the Metropolitan Development Commission.

6. If upon review the Administrator, based upon the attributes noted above, determines that the proposed cluster subdivision is appropriate for the site, the Administrator shall: 1. inform the petitioner in writing of the determination; and, 2. send a copy of that letter to the applicable registered neighborhood organizations. The petitioner may then proceed with the filing of a preliminary plat before the Plat Committee. The filed plat shall be in substantial compliance with the proposed plat approved by the Administrator. The legal notice for the public hearing of the Plat Committee regarding such a preliminary plat shall indicate clearly that the request is for a cluster subdivision.

d. *Maintenance of common open space areas.* As a condition of Administrator's approval of the cluster subdivision permitting exceptions to the standard requirements of the applicable zoning district, the petitioner shall submit with the site plan for review and approval documentary assurances that permanent dedication of the open space areas shall be made and that adequate provision(s) is being made for continuous and adequate maintenance of project open space, common areas and recreation areas. Once approved by the Administrator, the documentary assurances shall be filed with the Plat Committee

at the time a petition for plat approval is initiated. Further, the documentary assurances shall be incorporated in the plat that is recorded with the Office of the Marion County Recorder. No exceptions to these requirements shall be permitted unless the Plat Committee determines that the petitioner has adequately provided for such upkeep, protection and maintenance of open space, common area or recreational areas through other legally binding perpetual agreements.

(8) *Requirement for Group Homes for the Mentally Ill.* In any Dwelling District, a group home (as defined in section 731-102) for the mentally ill shall be excluded from a residential area if the group home is located within three thousand (3,000) feet of another group home for the mentally ill, as measured between lot lines.

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

a. A nonconforming use in a district of the Dwelling District Zoning Ordinance (as adopted by the Metropolitan Development Commission under docket number 66-AO-2) 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, have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.

c. This subsection 731-200(a)(9) 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 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.

3. Not apply to a property if written records of the:

i. Health and Hospital Corporation of Marion County;

ii. Fire department having jurisdiction over the property;

iii. Local law enforcement agency or agencies having jurisdiction over the property; or

iv. Indiana Department of Environmental Management or Department of Natural Resources;

for the twenty-four-month period prior to October 1, 1996, reflect that there has been a significant violation of laws pertaining to public health or safety or ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance) for activities occurring on the property or the condition of the property.

d. Definition of *significant violation*. For purposes of this provision, a violation is defined to be significant as:

1. Any outstanding violation or three (3) or more separate citations from any of the health and safety agencies referred to in subsection 731-200(a)(9)c.3. of this ordinance; or

2. Any citation or violation of Sections 302, 304, 310, 311, 313, and 701, as amended, of Chapter 10 of the Code of the Health and Hospital Corporation of Marion County, Indiana (Housing and Environmental Standards Ordinance); or

3. One (1) or more convictions of a tenant, owner, or lessee for criminal activities occurring on the property.

(b) All uses established or placed into operation after August 2, 1966, shall comply with the following performance standards. No use in existence as of the effective date of this ordinance 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 Division of Development Services, and is hereby incorporated by reference and made a part hereof.

(3) *Dust.* No use shall cause dust, dirt or fly ash 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 quantity 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.* 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.

SECTION 7. Section 731-215 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 731-215. D-11 dwelling district eleven regulations.

Statement of purpose. The D-11 district allows for mobile dwelling project development. The special characteristics of mobile dwellings, as opposed to the characteristics of conventional housing (such as compactness of the mobile dwelling unit, site accommodation requirements, etc.), have been recognized as requiring special district considerations. The D-11 district is designed to permit mobile and manufactured dwellings in accordance with appropriate standards. This district represents a medium density classification according to the Comprehensive General Land Use Plan and should be applied accordingly. The typical density for a D-11 district is six (6) units/gross acre. With the development standards included in this district, mobile dwelling projects are viable residential developments, and should be located with the same considerations as site-built residential neighborhoods. All public and community facilities are required. Proximity to major thoroughfares are necessary for the location of this district.

(a) *Permitted D-11 uses.* The following uses shall be permitted in the D-11 district. All uses in the D-11 district shall conform to the D-11 development standards (section 731-215(b)) and the dwelling district regulations of section 731-200.

(1) Mobile dwelling projects, including mobile dwellings and manufactured homes, subject to all development standards of section 731-215(b). Each permitted mobile dwelling within a mobile dwelling project shall be limited to single-family use and occupancy.

(2) Group homes, as defined in section 731-102 and as regulated in section 731-200(a)(8).

(3) Religious use, as regulated in section 731-224.

(4) Temporary uses, as regulated in section 731-218.

(5) Accessory uses, as enumerated below:

a. Manager's office and apartment: project maintenance equipment storage facility.

b. Common recreation and service buildings, structures and areas, including laundry facilities.

c. Open storage area.

d. Accessory parking areas.

e. Carports, canopies, covered patios, storage rooms, mini-barns, porches, awnings, swings and other play structures or equipment, provided the height thereof shall not exceed ten (10) feet measured from the finished mobile dwelling site grade, and that floors of carports, patios, storage rooms and porches shall be of concrete or other permanent pavement.

f. Wholesale and retail sales of mobile dwellings conducted as a business by dealers of mobile dwelling project owners/operators shall be prohibited in the D-11 district. Except, however, a mobile dwelling project owner/operator may display not more than six (6) "model" mobile dwellings on mobile dwelling sites in the interior of the project, provided such model units shall not be displayed for sale or removal outside the project; and further provided that no signs relative to the "model" units shall be installed so as to be visible to the public outside the project.

g. An incidental model home sign, as regulated in ~~the sign regulations of Marion County, Indiana (71 AO-4, as amended)~~ Chapter 734 of this Code, shall be permitted for each "model" mobile dwelling. Provided further, however, nothing contained herein shall restrict the right of any individual owner of any mobile dwelling unit to sell or lease such unit.

h. Child care home.

(b) *D-11 development standards.*

(1) *Project area.* A minimum contiguous project area of fifteen (15) acres with the first phase not less than five (5) acres shall be required. Each contiguous project area shall not exceed one

hundred (100) acres. Provided, however, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory for development in this district after January 1, 1990.

(2) *Maximum project density:* Six (6) units per gross project acre.

(3) *Combination of lots or portions thereof.* Whenever only a portion of a recorded lot is proposed as a mobile dwelling project or whenever two (2) or more recorded lots or portions thereof are proposed to be combined to form a mobile dwelling project, the proposed mobile dwelling project as shown on the site plan submitted shall be considered to be a newly created single lot, for the purposes of section 731-215(b)(1) of this ordinance, and such newly created lot shall not be reduced in size or divided or split if such reduction, division, or split will result in a lot which would fail to meet any of the requirements of this section.

(4) *Minimum project frontage.* Each project shall have at least one hundred fifty (150) feet of continuous frontage on a public street and shall gain direct access from said street. Each project containing over thirty (30) dwelling units shall provide at least two (2) accesses from a perimeter public street.

(5) *Perimeter yard.*

a. A perimeter yard is required for each mobile dwelling project. All parking, buildings, structures, and mobile dwelling sites shall be located so as to provide a setback of at least fifty (50) feet from all perimeter lot lines. This fifty-foot perimeter yard shall be landscaped and shall not be used for anything other than passive open space or a required roadway entrance into the mobile home park. Perimeter yards must be landscaped, screened and maintained according to section 731-221(f), provided, however;

b. Where the project abuts public perimeter streets, minimum perimeter front yards shall be sixty (60) feet, measured from the street right-of-way line of a local or collector street, or from the proposed right-of-way line of any primary or secondary arterial as indicated by The Official Thoroughfare Plan for Marion County, as amended.

(6) *Mobile dwelling sites.*

a. Mobile dwelling sites within the project shall be provided for each mobile dwelling in accordance with the following standards:

1. Each mobile dwelling project shall be divided into mobile dwelling sites.

2. Each mobile dwelling site shall contain an area of no less than four thousand (4,000) square feet, provided, however;

3. Each mobile dwelling site, which requires a double or triple wide unit, shall contain an area of no less than five thousand four hundred (5,400) square feet.

(7) *Minimum interior yards.* Minimum interior yards within the project shall be provided for all mobile dwelling sites in accordance with the following standards:

a. A minimum required front building setback of ten (10) feet shall be provided, measured from the curb line of any interior street or interior access drive within the project. Parking spaces shall not be permitted within this required setback; however, driveways accessing parking areas on the site and other appurtenances are permitted.

b. A minimum distance of fifty (50) feet shall be provided between any recreational or other project common building and any dwelling unit within the project.

c. A minimum distance of twenty-five (25) feet shall be provided between dwelling units at their closest points to each other. Except, however, that any dwelling unit accessory structure, open on at least two (2) sides, may project into such required interior yard provided that the distance between such accessory structure and any other dwelling unit, or between such accessory structures of two (2) dwelling units, shall be at least fifteen (15) feet.

(8) *Minimum recreational and open space areas.* Developed recreational and common open space areas equal to, at a minimum, eight (8) percent of the total area of the mobile dwelling project shall be required. Land used for the required perimeter yard, mobile dwelling sites, vehicular

areas, access easements, and rights-of-way shall not be considered as part of this required eight (8) percent open space. Common open storage areas developed as required in section 731-215(b)(10) shall not be included in the open space computation.

a. These recreational and common open space areas shall be accessible to all project residents, appropriately located within the project with respect to the residents they are designed to serve and with regard to adjacent land uses. Accessibility to such areas shall not solely be gained by way of a mobile dwelling site or sites.

b. Developed recreational areas may include, but shall not be limited to, such facilities as playgrounds, tot lots, swimming pools, game courts and common recreational buildings. An imaginative approach to the provision and design of such areas is encouraged. Project recreational needs will depend upon such factors as project site, size and the anticipated age characteristics of the residents. These areas shall provide for the use of all project residents and be appropriately located within the project with respect to the residents they are designed to serve and with regard to adjacent land uses.

c. Common open space areas are those areas within the project set aside for the common use of all project residents. The general design of these areas should demonstrate an awareness of their intended use for passive enjoyment. Utilization of common open space areas may be enhanced by improvements such as walkways, meandering trails, benches, flowers, shrubs and tree plantings, while still maintaining their natural open character.

d. Items such as drainage swales may be included as open space if, through proper design, they add favorably to the open space inventory and site development of the project and do not present a health or safety hazard to project residents.

e. Off-street pedestrian ways and/or bike paths shall be constructed where necessary to provide safe access to recreational and other service areas. Such off-street pathways shall have a minimum width of three (3) feet and shall have at least a three (3) foot wide area of open space along the sides of the pathway. All such off-street pathways shall be hard-surfaced.

(9) *Minimum parking area.*

a. A minimum of two (2) hard-surfaced off-street parking spaces shall be required for each dwelling unit and shall be located on each mobile dwelling site.

b. One parking space for each two hundred eighty-five (285) square feet or fraction thereof of gross floor area shall be required for the manager's office (not including storage space), and any common recreation structures located within the mobile dwelling project.

c. Off-street parking areas shall not be permitted in any required interior front yard setback.

d. Off-street parking facilities shall be provided and maintained in accordance with section 731-221(e)(2)b.

(10) *Storage areas.*

a. Open storage area: an open storage area shall be provided within the project boundaries for the purpose of storing travel trailers, campers, boats and other recreational vehicles owned by project residents. The open storage area required for the project shall be computed on the basis of one hundred twenty (120) square feet of space per mobile dwelling site. Such open storage areas shall be screened so as not to be directly visible from any perimeter boundary of the project and shall further be accessible to all project residents.

Travel trailers, campers, boats and other recreational vehicles shall be permitted to be stored only in such storage areas, whether temporarily or permanently.

b. General storage space: in order to provide adequate storage facilities on or conveniently near each mobile dwelling site for the storage of outdoor equipment, furniture, tools, and other materials used only seasonally or infrequently, or incapable of convenient storage within the mobile dwellings, a minimum of one hundred fifty (150) cubic feet of general storage space within a structure per dwelling unit shall be provided on the mobile dwelling site, or in compounds located not more than one hundred (100) feet from each

dwelling unit. Each such storage space shall be constructed and located in conformity with the approved site plan required by section 731-215(b)(16). Provided, however, all or a portion of such storage space for any fully skirted mobile dwelling unit may be provided under such unit, in lieu of separate storage facilities.

(11) *Patios and paved stands.* All mobile dwelling sites shall be improved as follows:

a. Each mobile dwelling site shall contain a patio or deck with an area of no less than two hundred (200) square feet. Such patio or deck shall be constructed of concrete, brick, tile, treated wood or similar material, so as to result in a dustfree and well-drained surface.

b. Concrete runners, concrete pillars or a paved stand shall be provided to accommodate each mobile dwelling.

c. An anchoring system (tiedowns) shall be provided, installed and attached to the dwelling upon its placement on the mobile dwelling site to withstand the specified horizontal, uplift, overturning wind forces on a mobile dwelling based upon accepted engineering design standards as required by Regulation HSE 21 of the Indiana State Board of Health.

(12) *Skirting.* No later than thirty (30) days after a mobile dwelling has been placed upon a mobile dwelling site, the area between the bottom of the sides and ends of the mobile dwelling and the surface upon which it is located shall be enclosed by walls made of a visibly opaque skirting material. Mobile dwellings shall have skirting or other design attachments installed by the mobile dwelling owner which shall harmonize with the architectural style of the mobile dwelling. Access doors shall be permitted under the mobile dwelling.

(13) *Utilities.*

a. All utility lines, including but not limited to electric, telephone, water, gas, and cable television lines, shall comply with Underground Utility Line Regulations Ordinance 72-AO-5, as may be amended.

b. Individual radio and television antennas, not exceeding four (4) feet in height, shall be permitted; or a central system utilizing underground wiring to individual dwelling units and accessory buildings may be installed.

(14) *Maximum height.*

a. All mobile dwellings, accessory structures and buildings: twenty-five (25) feet.

b. All management offices, common recreation and service buildings: thirty-five (35) feet, with the exception of skylights, appurtenances, chimneys or similar structures.

(15) *Streets and sidewalks.*

a. Public streets, interior access drives, driveways, and off-street parking areas shall be provided in accordance with section 731-221, Special regulations.

b. Private interior streets, interior access drives and driveways shall be constructed with curbs and gutters and shall otherwise be provided in accordance with section 731-221, Special regulations.

Provided, however, that private interior streets, private interior access drives and private interior access driveways which have two-way traffic with no parking shall have a minimum pavement width of twenty-four (24) feet, exclusive of curbs or gutters.

c. Sidewalks shall be installed within each mobile dwelling project in accordance with the following:

1. Sidewalks are required to be installed on one side of a street with an improved width of twenty (20) feet or less and on both sides of a roadway with an improved width of greater than twenty (20) feet.

2. All sidewalks shall be hard-surfaced and shall have a thickness of no less than four (4) inches.

3. Common sidewalks, with a minimum width of three (3) feet, intended to provide pedestrian circulation from one mobile dwelling to another or to various locations throughout the mobile dwelling project shall serve all mobile dwellings and common use areas that front upon or have access from a street improved with curbs and gutters. Such sidewalks shall be located parallel to a street.

4. A hard-surfaced walkway having a minimum width of three (3) feet connecting the mobile dwelling with its off-street parking area shall be provided.

5. In addition to those sidewalks required by this section 731-215(b)(15), sidewalks may be placed so that they bisect a block of mobile dwelling sites in order to provide an interior type of common sidewalk circulation system. Such sidewalks shall not be located on any mobile dwelling site. Such sidewalks shall have a minimum width of three (3) feet and shall have at least a three (3) foot wide area of open space along the sides of the sidewalk. This sidewalk and open space area may be figured into the required minimum recreational and open space area.

6. A sidewalk with a minimum width of three (3) feet may be provided for access from each mobile dwelling to a street or to a common walkway system.

7. No portion of any parking space shall encroach upon any portion of a sidewalk.

(16) *Project and site plan requirements.* In order that a petition for a D-11 district can be evaluated, the petitioner shall file with the petition a project orientation map, topographic map and site plan (as specified in paragraphs a., b., and c. which follow).

In addition to other permit requirements, a landscape plan (as specified in section 731-221, Special regulations) shall be filed with the Division of Development Services of the Department of Metropolitan Development and approved by the Administrator thereof prior to the issuance of an Improvement Location Permit.

a. The orientation map shall include a legal description and delineate the boundaries of the project site; and shall show the location of all the features listed below existing within one mile of the project site.

Public schools

Thoroughfares

Railroads

Fire protection services

Public transportation

Major shopping areas

Public recreational facilities

Other important features which may affect the planned project

b. The topographic map shall be drawn to scale, current dated, prepared and signed by a registered land surveyor or civil engineer and shall clearly show the following:

Contours having an interval of two (2) feet,

All existing buildings and other structures or improvements such as walls, fence-lines, culverts, bridges, roadways, etc., with spot elevations indicated,

Location and spot elevations of rock outcrops, high points, watercourses, depressions, ponds and marsh areas, with any previous flood elevations as may be determined by survey,

Boundaries of any floodway or floodplain zones or areas subject to periodic inundation,

Size, variety, caliper and accurate location of all existing trees over two and one-half (21/2) inch caliper; except within natural vegetation areas (woods, thickets or meadows) that will not be developed, but will be left and maintained as natural areas,

Boundary lines of property and corner monuments,

Soil types; careful attention must be given in the location and construction of mobile dwelling projects to the ability of the soil to support the development,

Location of any test pits or borings if required to determine subsoil conditions,

All easements, rights-of-way and other restrictions.

c. The site plan, drawn to scale, shall indicate:

Existing and proposed streets, access drives, driveways, interior access drives, sidewalks and pedestrian ways,

All paving and hard-surfacing materials,

Ingress to and egress from the project site to/from perimeter public streets,

Minimum required yards,

Location of all parking, recreational and storage areas,

Individual mobile dwelling sites,

Location of mobile dwelling paved stands,

Mobile dwelling project facilities such as office, laundry, storage and recreation structures,

Location, height and type of screens, walls and fences,

All adjacent properties':

1. Lot lines;

2. Existing land use and zoning classification; and,

3. Approximate location of all existing structures within one hundred (100) feet of the project's property lines;

A legend which shall include a listing of the overall acreage; the scale of the plan; gross and net density of lots, spaces or units; percentage and area of open spaces by types, number of spaces, building area of project buildings or structures; parking spaces required and provided, and estimated total population profile.

(17) *Existing nonconforming projects.*

a. Conformity with certain standards required. All nonconforming mobile dwelling projects on the effective date of this ordinance:

1. Shall conform to the development standards and requirements of section 731-221(f)(5) (Special regulations--grounds maintenance), section 731-215(b)(11)c (patios and paved stands), and section 731-215(b)(12) (skirting) of this ordinance on or before January 1, 1993, or the use thereof shall be terminated after such date; and,

2. Shall conform to the development standards and requirements of section 731-221(f) subsections 1 through 4 (special regulations--screening, landscaping, lighting) of this ordinance on or before January 1, 1993, or the use thereof shall be terminated after such date.

b. Plan approval. A plan for each such nonconforming project shall be filed with the Division of ~~Development Services~~ Planning of the Department of Metropolitan Development and approved by the Administrator thereof in accordance with the

following schedule. Within ninety (90) days after the effective date of this ordinance, a plan shall be filed setting forth a legal perimeter description. The number of mobile dwelling sites, location of streets, light poles, and the existing nature of perimeter landscaping or visual screening shall be indicated. Within three (3) years after the effective date of this ordinance, a plan for compliance or a statement of existing compliance shall be filed setting forth the proposed or existing manner of compliance with section 731-215(b)(17)a of this ordinance. The project's required development in conformity with provisions of this ordinance specified in paragraph a. above shall be in accordance with such approved plan.

As a part of such plan approval, the Administrator of the Division of ~~Development Services~~ Planning shall have power to modify any screening or landscape requirements deemed by the Administrator to be unnecessary, infeasible or unreasonably burdensome.

c. Appeals. In all subsections of this section 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 bring such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval through the filing of an Approval Petition. The right to have such action of the Administrator reviewed by the Metropolitan Development Commission shall be in addition to any other right an aggrieved party may have under law to have such action reviewed, including but not limited to the right to appeal such action to the Metropolitan Board of Zoning Appeals of Marion County, Indiana.

SECTION 8. Section 731-221 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 731-221. Special regulations.

(a) *Minimum setback lines and yards.* Front yards, having a minimum depth in accordance with the following setback requirements, shall be provided along all public street right-of-way lines, and the minimum required building setback lines shall be as follows:

(1) Expressway, parkway or primary thoroughfare (as designated on The Official Thoroughfare Plan of Marion County, Indiana). No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than forty (40) feet to any proposed right-of-way line of an expressway, parkway or primary thoroughfare. In the case where a proposed right-of-way line does not exist, the existing right-of-way line shall be used for the setback measurement.

(2) Secondary thoroughfare (as designated on The Official Thoroughfare Plan of Marion County, Indiana). No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than thirty (30) feet to any proposed right-of-way line of a secondary thoroughfare. In the case where a proposed right-of-way line does not exist, the existing right-of-way line shall be used for the setback measurement.

(3) Collector street. No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than thirty (30) feet to any existing right-of-way line, or sixty (60) feet from the centerline, of a collector street, whichever is greater.

(4) Local street, marginal access street or cul-de-sac.

a. No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than twenty-five (25) feet to any existing 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 (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than twenty (20) feet to any existing right-of-way line of the vehicular turnaround of a cul-de-sac.

(b) *Attached multifamily dwelling projects, single-family cluster dwelling projects and mobile dwelling projects; site plan requirement to Improvement Location Permit issuance.* Prior to Improvement Location Permit issuance for any building or structure within an attached multifamily dwelling project, single-family cluster dwelling project, or mobile dwelling project, three (3) copies of the site and landscape plans for the entire project shall be filed with the Department of Metropolitan Development.

Also, for an attached multifamily dwelling project, the site and landscape plans shall include a delineation of the proposed major livability space.

(c) *Street requirements.*

(1) *Clear sight triangular area.* The following provisions shall apply to all streets, interior access drives or interior access driveways, whether public or private: All landscape plantings, structural barriers, shrubs, trees, structures or other objects, temporary or permanent, shall permit completely unobstructed vision within a clear sight triangular area between the heights of two and one-half (21/2) and nine (9) feet above the crown of the streets, drives, or driveways. A clear sight triangular area shall be established as one of the following (See section 731-102, diagram F [not included herein]):

a. On a corner lot, the clear sight triangular area is formed by the street right-of-way lines, the pavement edge of the drives or driveways and the line connecting points twenty-five (25) feet from the intersection of such street right-of-way lines and pavement edge lines; or in the case of a round or cut property corner, from the intersection of the street right-of-way lines and pavement edge lines extended; or,

b. On a lot adjacent to an at-grade railroad crossing, the clear sight triangular area is formed by the lot line coterminous with the railroad right-of-way, the street right-of-way line or pavement edge line, and the line connecting points twenty-five (25) feet from the intersection of such lines; and,

c. On a lot which has a driveway, abuts an alley or which is next to a lot which has a driveway, the two (2) clear sight triangular areas are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and the line connecting points ten (10) feet from the intersection of the street right-of-way and driveway or alley lines extended.

(2) *Requirements for public streets.*

a. All public streets shall be dedicated to the public and improved and constructed in accordance with the standards set forth in the Subdivision Control Ordinance of Marion County, Indiana, and General Ordinance No. 49, 1972, including the Indianapolis Department of ~~Transportation~~ Public Works Standards for Street and Bridge Design and Construction.

b. The right-of-way of all streets within the project, which are indicated on The Official Thoroughfare Plan for Marion County, Indiana, or which have been required by zoning, variance, or platting commitment, condition, covenant or parole covenant, to be constructed to specific standards based upon their proposed functional classification shall be dedicated to the public, or the right-of-way thereof shall be reserved for the future.

(3) *Requirements for all private streets, interior access driveways, and interior access drives for attached multifamily dwelling projects, mobile dwelling projects and planned unit residential developments.*

a. All private streets, interior access driveways and interior access drives for attached multifamily projects, mobile dwelling projects and planned unit residential developments shall meet the minimum standards for construction, materials for use in construction, and design as specified by the "Standard Specifications," Indiana Department of Transportation (8-17-1-39), the Indiana Department of Transportation Supplemental Specifications, and the Indianapolis ~~Department of Transportation (DOT)~~ department of public works (DPW) Standards for Street and Bridge Design and Construction. In the event ~~DOT~~ 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 is incorporated into this ordinance by reference. Two (2) copies of the "Standard Specifications" are on file and available for public inspection in the office of the Division of Development Services.

Provided, however, that the standard specifications incorporated into this ordinance shall be modified as follows:

1. Curbing shall not be required in the development of private streets, private access driveways and private interior access drives for attached multifamily projects.

2. Private interior streets, private interior access drives and private interior access driveways for attached multifamily projects, mobile dwelling projects and planned unit residential developments shall have a minimum width, including gutters, and, if required, curbing, of:

One-way, no parking: Twelve (12) feet.

One-way, parking on one (1) side of the street only: Twenty (20) feet.

Two-way, no parking: Twenty (20) feet.

Two-way, parking on one (1) side only: Twenty-seven (27) feet.

Two-way, parking on both sides of the street: Thirty-six (36) feet.

b. Private streets, private interior access drives and private interior access driveways shall be privately maintained (not by governmental agencies) in good condition and free of chuckholes, standing water, weeds, dirt, trash and debris.

c. The owner or project management, homeowners' association or other similar organization shall maintain all sidewalks, pedestrian ways, private streets, interior access drives, interior access driveways and parking areas in good repair and reasonably free of chuckholes, standing water, mud, ice and snow.

(d) *Reserved.*

(e) *Off-street parking requirements.* Off-street parking facilities shall be provided and maintained, for all uses permitted in the dwelling districts, in accordance with the following regulations:

(1) Number of spaces required.

a. For every single-family dwelling or two-family dwelling in the D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-8, and D-12 dwelling districts, there shall be provided at least two (2) off-street parking spaces for each unit which may include the parking space(s) provided in a garage or carport.

b. For every attached multifamily dwelling in the D-6, D-6II, D-7, D-8, D-9 and D-10 dwelling districts, off-street parking spaces shall be provided in accordance with the development amenities of each district.

c. For every mobile dwelling in the D-11 dwelling district, a minimum of two (2) paved off-street parking spaces shall be provided.

(2) Development requirements.

a. Parking areas for uses in 1, a. above need not be paved.

b. Parking areas for uses in 1, b. above shall be subject to the following requirements:

1. Off-street parking areas (including, but not limited to, entrances, exits, aisles, spaces, traffic circulation and maneuverability) shall be designed and constructed at not less than the recommended specifications contained in "Architectural Graphic Standards," Current Edition, Ramsey and Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the offices of the Division of ~~Development Services~~ Planning and is hereby incorporated by reference and made a part hereof); except that each parking space shall have, regardless of angle of parking, a usable parking space measuring not less than eight and one-half (81/2) feet in width (measured perpendicularly from the sides of the parking space) and at least one hundred fifty (150) square feet of usable parking area.

2. 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.

3. Parking areas shall be paved with bricks, concrete or improved with a compacted aggregate base and surfaced with an asphaltic pavement, to adequately provide a durable and dustfree surface. Parking areas shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris.

4. The surface shall be graded and drained in such a manner that there will be no free flow of water onto sidewalks.

5. The parking area shall have each space delineated by painted lines and shall be provided with curbs, bumper guards or wheel stops so located that no part of the parked vehicles will extend beyond the boundary of the established parking area.

(f) *Screening, landscaping, lighting and grounds maintenance.* Screening, landscaping, lighting and grounds maintenance shall be provided and maintained, for all attached multifamily dwelling projects and all mobile dwelling projects, in accordance with the required landscape plans and with the following regulations:

(1) Screening:

a. Front yard of the project: An ornamental, decorative fence or masonry wall, not more than forty-two (42) inches in height if solid, or six (6) feet if the sight barrier is less than fifty (50) percent, may be used in conjunction with the required landscaping. Chain link fencing is not permitted. A clear sight triangular area shall also be maintained as regulated in section 731-219(b)(2)c of this ordinance.

b. Side and rear yard of the project: An ornamental, decorative fence or masonry wall may be used in conjunction with the required landscaping. Chainlink fencing is permitted provided it is black vinyl covered chainlink and does not include slats. A clear sight triangular area shall also be maintained as regulated in section 731-219(b)(2)c of this ordinance.

Provided, however, if any portion of a mobile dwelling project or a multifamily project abuts land zoned so as to permit single-family or two-family dwellings, the perimeter yard between the project and the district shall be screened and landscaped for the purpose of buffering. In addition to the landscape requirements of section 731-221(f)(2), screening shall be provided and maintained according to the following minimum requirements:

1. Screening shall include any combination of an earthen mound; a solid hedge; a wall or fence of ornamental block, stone, brick, or solid wood fencing; and,

2. Effective screening height shall be at least six (6) feet, as measured from the parking area's grade level, and so constructed to prohibit any view therethrough; and,

3. If fencing is used for screening, such fencing shall be completely opaque when viewed within fifteen (15) degrees of perpendicular to the fence; and,

4. If an earthen mound is used for screening, such earthen mound shall not exceed a maximum height of four (4) feet above grade and the incline shall not exceed a three (3) to one ratio, with the exception of previously existing natural outcroppings.

c. Trash containers. All trash containers exceeding six (6) cubic feet shall:

1. Be completely screened within a solid walled or fenced stall equipped with a self-latching solid gate and buffered by landscaping; and,

2. Be accessible only from an interior access drive of the project; and,

3. Not be located in any required perimeter yard.

(2) Landscaping:

a. All required perimeter yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation, such as trees, shrubs, grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel

may be used as a landscaping accent, but shall be limited to only twenty (20) percent of the area of the required yard in which it is used.

b. Within the perimeter yards, there shall be at least one tree planted or maintained for every thirty (30) feet of total linear distance along all perimeter yard property lines. Required trees may be grouped together in the perimeter yard, however, in no case shall spacing between said trees exceed sixty (60) feet on center. (Refer to Diagram E [not included herein].)

c. All parking areas adjacent to required perimeter yards shall be screened along the perimeter yard with a solid hedge. Screening may include the combination of said solid hedge and earthen mound, provided the effective screening height shall be at least thirty-six (36) inches above the parking area's grade level at the time of planting and the maximum incline of the earthen mound shall not exceed a three (3) to one ratio with the exception of previously existing, naturally occurring outcroppings.

d. Within mobile dwelling projects, at a minimum, one tree shall be planted or maintained on every mobile dwelling site. Said required tree shall not be located within any required yard or common recreational area(s).

e. Required trees shall be deciduous or evergreen with a spreading branch habit. A group of shrubs may be substituted for a required tree, provided however:

   1. That the proposed tree to be substituted is not an existing tree, and

   2. That no more than twenty (20) percent of the required trees are substituted with shrubs, and

   3. That the shrubs are planted or maintained five (5) feet or less on center, and

   4. The shrubs substituted are in addition to any underplanting requirements, and

   5. That a grouping of five (5) shrubs may be substituted for one tree.

f. The minimum size of all required landscape plant materials, at the time of planting, including substituting or replacement trees and shrubs, shall be as follows:

   1. Deciduous shade (overstory) trees: Two and one-half (21/2) inch caliper at six (6) inches above the ground.

   2. Deciduous ornamental (understory) trees: One and one-half (11/2) inch caliper at six (6) inches above the ground.

   3. Multistemmed trees: Eight (8) feet in height.

   4. Evergreen trees: Five (5) feet in height.

   5. Deciduous shrubs: Twenty-four (24) inch spread or two (2) feet in height.

   6. Evergreen shrubs: Twenty-four (24) inch spread or two (2) feet in height.

g. Deciduous and evergreen shrubs when used for required hedges shall be planted an average of thirty-six (36) inches or less on center within the hedge row.

h. All trees and shrubs shall be planted, maintained or transplanted in accordance with the standards of the American Association of Nurserymen (a copy of which is on file in the Office of the Division of ~~Development Services~~ Planning and is hereby incorporated by reference and made a part hereof). All trees and shrubs shall be mulched and maintained to give a clean and weedfree appearance.

i. Prior to any construction activity, the removal from any minimum, required yard of any existing deciduous tree over three (3) inch caliper at six (6) inches above ground or of any existing shrub or evergreen tree over six (6) feet in height, must first be approved in writing by the Administrator. Removal of said tree(s) without written approval from the Administrator, shall require the replanting of replacement tree(s) so that the total number of caliper inches replanted equals or exceeds the total number of calipers removed.

Replacement trees shall be of the same species as those trees removed unless approved otherwise by the Administrator. Replanting of these replacement trees shall occur within six (6) months of removal or the next planting season, whichever occurs first. Replacement trees shall not be considered a required tree for the figuring of the minimum number of trees required in any perimeter yard but rather as an additional tree.

j. All existing trees larger than ten-inch caliper at six (6) inches above the ground which are to be preserved shall be maintained without injury and with sufficient area for the root system to sustain the tree. Protective care and physical restraint barriers, such as temporary protective fencing, shall be provided to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction. Heavy equipment traffic and storage of construction equipment or materials of any kind shall not be any closer to the tree than the drip line of the tree or ten (10) feet whichever is closer.

k. Prior to the issuance of an Improvement Location Permit, the Administrator may require a tree survey for a specified time to be completed for a site or portion of a site. Such survey shall become a part of the file and requirements for an Improvement Location Permit. In the case of large, dense tree stands (those exceeding six hundred (600) square feet in area with seventy-five (75) percent branch coverage of the ground surface), the outer boundary of the tree stands' drip line and location with a listing of the predominant species and caliper size may be substituted for a detailed inventory.

l. The Administrator, upon written request by the applicant and upon receiving a suitable alternative landscape plan, shall have the power to modify any landscape requirements deemed by the Administrator to be infeasible or unreasonably burdensome. Such modification shall be written and become a part of the file and requirements for the Improvement Location Permit.

(3) Landscape plan: A landscape plan shall:

a. Be drawn on a copy of the site plan (or a simplified scale drawing thereof) showing exact location, outlines and dimensions of all structures, buildings, mobile dwelling sites, mobile dwelling paved stands, patios, sidewalks and pedestrian ways, streets, trash enclosures, project access and interior access drives and driveways, individual and project storage, permanent lighting fixtures, signs, benches, screens, walls, fences, natural vegetation areas, open space, recreational areas, perimeter yards, adjacent property uses and physical features, and all underground and overhead lines with depths or heights indicated at intervals where lines change direction or where terminals or connections are provided; and,

b. Show dimensioned detailed elevation or section drawings of any trash enclosures, walls, fences, and signs (including sign content); and,

c. Show all existing elevations and proposed land contour lines having at two-foot intervals; and,

d. Show location and nature of existing and proposed drainage systems and their flow; and,

e. Include a tree survey indicating the exact location of existing trees of over two and one-half (21/2) inch caliper one foot above the ground and all flowering trees, shrubs and evergreens; all being accurately labeled in the drawing as existing (to remain), existing to be removed or to be transplanted with species and caliper size indicated. Exception: those trees and shrubs located in natural vegetation areas (e.g., woods, thickets or meadows) that will not be developed, but will be left and maintained as a natural untouched area may be indicated by the delineation of the area's outer boundary; and,

f. Show all proposed plantings and transplantings with plants and plant groups labeled in the drawing as to quality, species, shape, size, spacing (on centers), and purpose (visual or noise abatement screen, hedge, specimen or ground cover).

(4) Lighting:

a. All access drives, interior streets, interior access drives, intersections, dead ends, cul-de-sacs, apices of curves, parking areas, open storage areas, walks and passive and active

recreation areas shall be provided with lighting devices to adequately illuminate the areas.

b. Street or pedestrian lighting devices may be mounted at heights beginning at (or slightly below) ground level to forty-two (42) inches above ground or from ten (10) to thirty (30) feet above ground. Spacing of all lighting devices shall be determined by the height above street grade level and maximum footcandles of each device in conjunction with their capacity to provide an adequate lighting level for the required area and use.

c. Lighting levels for all outdoor areas shall meet the recommended minimum average maintained horizontal footcandle as specified in the "Illuminating Engineering Society Lighting Handbook," Application Volume, current edition (a copy of which is on file in the Office of the Division of ~~Development Services~~ Planning and is hereby incorporated by reference and made a part hereof).

d. All lighting facilities used to illuminate outdoor areas shall be so located, shielded and directed upon the area to be lighted that they do not glare onto, or interfere with, street traffic, adjacent buildings, or adjacent uses.

e. Lighting devices for active recreational areas and uses shall be equipped with switching devices which allow lighting levels to be changed when the active recreational use ceases and a lower lighting level is sufficient.

(5) *Grounds maintenance:* The project owner or management, homeowners' association or other similar organization shall:

a. Maintain the entire site in a safe, neat and clean condition; free from litter, trash, debris, junk, and reasonably free of weeds; and,

b. Maintain all sidewalks, pedestrian ways, interior streets, interior access drives, and parking areas in good repair and reasonably free of chuckholes, standing water, mud, ice and snow; and,

c. Maintain the landscaping by keeping lawns mowed, all plants properly pruned and maintained as diseasefree, and planting beds groomed, except in naturally occurring vegetation areas, such as thickets; and,

d. Replace any required planting(s), which are removed or no longer living, within a year or the first planting season, whichever occurs first, except those in naturally occurring vegetation areas, such as thickets.

(g) *Appeal.* In all subsections of this section 731-221, Special regulations, where the Administrator is given 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 bring such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval through the filing of an approval petition for a detailed plan approval. The right to have such action of the Administrator reviewed by the Metropolitan Development Commission shall be in addition to any other right an aggrieved party may have under law to have such action reviewed, including, but not limited to, the right to appeal such action to the Metropolitan Board of Zoning Appeals of Marion County, Indiana.

(h) *Application of this section.* This section shall be applicable to all dwelling districts except when specified otherwise in the Dwelling District Zoning Ordinance or in the D-P planned unit residential development district where subsections (a) and (e) shall not be applicable.

SECTION 9. Sections 731-322 and 731-323 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 731-322. Requirements for improvements, reservations, and design; general subdivision standards.

(a) *Streets.* All proposed plats submitted for Committee approval under the provisions of these regulations shall allocate adequate areas for streets in conformity with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana, and shall designate and label all such streets

thereon in accordance with the following definitions, specifications and requirements regarding platting width, right-of-way, and control of access.

(1) *Street classification and minimum street rights-of-way.*

a. *Expressway.* Any street designated and labelled as an "expressway" shall be a divided arterial street designed, planned and intended for through vehicular traffic in conformance with the Comprehensive Plan and Thoroughfare Plan for Marion County, Indiana, with full or partial control of access thereto. The minimum right-of-way required for an expressway shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Control of access shall be as determined by the ~~DCAM~~ Department of Public Works or the Indiana Department of Transportation, based upon the jurisdiction of the subject facility.

b. *Parkway.* Any street designated and labelled as a "parkway" shall be a street serving through vehicular traffic, with partial control of access provided. Adjoining land on one (1) or both sides of such a street shall be predominately dedicated or used for park purposes, and shall conform to the Comprehensive Plan for Marion County. Control of access shall be as determined by the ~~DCAM~~ Department of Public Works.

c. *Primary thoroughfare.* Any street designated and labelled as a "primary thoroughfare" shall be designed, planned and intended to serve through vehicular traffic within Marion County or surrounding areas, in conformance with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana. As a general rule, primary thoroughfares shall be located at approximately one (1) mile intervals in the north-south or east-west grid pattern. The minimum right-of-way required for a primary thoroughfare shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Partial control of access to a primary thoroughfare shall be exercised so as to permit access to each lot abutting thereon as provided in section 731-322(a)(2)d. of this article.

d. *Secondary thoroughfare.* Any street designated and labelled as a "secondary thoroughfare" shall be designed, planned and intended to serve as a collector and distributor of through vehicular traffic from sections of land within Marion County, in conformance with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana. The minimum right-of-way required for a secondary thoroughfare shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Partial control of access to a secondary thoroughfare shall be exercised so as to permit access to each lot abutting thereon as provided in section 731-322(a)(2)d. of this article.

e. *Collector street.* Any street designated and labelled as a "collector street" shall be designed, planned and intended to serve as a collector and distributor of vehicular traffic, carrying such traffic to and from expressways, parkways, primary thoroughfares, secondary thoroughfares, and local streets. Collector street shall include but not be limited to entrance streets of residential subdivisions.

f. *Local street.* Any street designated and labelled as a "local street" shall be designed, planned and intended primarily to provide access to lots abutting thereon.

g. *Cul-de-sac.* Any local street designated and labelled as a "cul-de-sac" shall be designed, planned and intended as such, having only one (1) end open to vehicular traffic from an expressway, parkway, primary thoroughfare, secondary thoroughfare, collector street or local street and with the closed end permanently terminated by a vehicle turnaround.

The minimum right-of-way required for a parkway, collector street, local street, or a cul-de-sac shall be per the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. No. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana).

(2) *Standards.*

a. *Streets.* Streets which are extensions or continuation of, or obviously in alignment with, any existing streets, either constructed or appearing on any validly recorded plat or survey, or valid plat previously approved by the Commission, shall bear the names of such existing streets.

b. *Alleys.*

1. In areas designated as Development Area One in the Thoroughfare Plan for Marion County, Indiana, public alleys may be utilized for infill development, and where the use of such alleys would be compatible with the development pattern of the area surrounding the proposed plat.

2. Private alleys may be utilized for any proposed plat, provided they are constructed to local street pavement thickness and geometric design as noted in accordance with the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code, both documents incorporated into these regulations by reference and made a part hereof.

c. *Access to areas abutting thoroughfares.* If the area proposed to be platted abuts upon or contains an existing or proposed thoroughfare, the street plan shall provide vehicular access to each lot abutting upon such thoroughfare by one (1) of the following means:

1. The subdivision of lots which back up to the thoroughfare and front onto an interior parallel local or collector street; no access shall be provided from the thoroughfare, and screening shall be provided in a strip of land along the rear property line of such lots.

2. A series of culs-de-sac, U-shaped streets, or short loops entered from and designed generally at right angles to an interior parallel street, with the rear lines of their terminal lots backing onto the thoroughfare (see Diagram A).

3. A marginal access street (the rights-of-way between the marginal access street and the thoroughfare separated from one another by a permanent strip of land of at least fifteen (15) feet in width, outside of, and separate from, the rights-of-way of either street).

d. *Dead-ended streets.* Permanently dead-ended streets (except for cul-de-sac streets as defined in these regulations) are prohibited. A temporarily dead-ended street is permitted in any case in which a street is proposed to be and should logically be extended beyond the limits of such plat, but is not yet constructed beyond such plat limits. The right-of-way of a temporarily dead-ended street shall extend to the property line of the plat. An adequate easement for a turnaround shall be provided for any such temporarily dead-ended street which extends two hundred fifty (250) feet in length or greater, with a temporary hammer head ("T"); or an ell ("L") shaped turnaround provided. A notation on the plat shall state that land outside the normal street right-of-way shall revert to abutting property owners when the street is continued.

(b) *Lots.*

(1) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography, soil or water conditions, or other conditions, in securing building permits to build on all lots in compliance with the zoning ordinance and health and hospital regulations, and in providing driveway access to buildings on the lots from an approved street. The design, character, grade, location, and orientation of all lots so allocated shall be appropriate for the uses proposed, and logically related to existing and proposed topography. Every lot shall have sufficient and adequate access to a street constructed, or to be constructed, in accordance with the provisions, standards, and specifications of this article.

(2) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the applicable zoning district, or per zoning commitment, variance grant, cluster plat approval, or approval grant by the applicable public land use policy making body. In general:

a. Side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan.

b. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum required front yard setback from both streets, as regulated in the applicable zoning ordinance, or per zoning commitment, condition of a variance grant, or approval grant by the applicable public land use policy making body, pertaining to that site.

(3) *Lot orientation.* The lot line common to the street right-of-way shall be the front lot line. All lots shall face the front line. Whenever feasible, lots shall be arranged so that the rear lot line does not abut the side lot line of an adjacent lot.

(4) *Lots frontage and access.*

a. *Double frontage lots.* Double frontage, or through, lots shall be avoided except where necessary (as noted in section 731-322(a)) to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

b. *Triple frontage lots.* Triple frontage lots (those lots which have frontage on three (3) streets) are prohibited except at the entrances to a subdivision from an abutting street identified in the Thoroughfare Plan for Marion County, Indiana, as an expressway, freeway, primary arterial or secondary arterial.

c. *Access from primary and secondary arterials.* Lots shall not, in general, derive access exclusively from a primary or secondary thoroughfare, as noted in the Thoroughfare Plan for Marion County, Indiana. Where driveway access from a primary or secondary arterial thoroughfare may be necessary to several adjoining lots, the Committee may require that such lots be served by a combined access drive or frontage road in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on primary or secondary arterial thoroughfares.

(5) *Common area.* Whenever common area for a subdivision perimeter abuts a secondary or primary arterial street, as designated in the Official Thoroughfare Plan for Marion County, Indiana, such common area shall be a minimum of twenty (20) feet in width along and paralleling the length that it abuts the thoroughfare. Common areas within a subdivision shall be accessible to all its residents. Access shall be provided so that no common area is "land locked" by private lots, requiring subdivision residents to trespass across such lots in order to enter the common area.

(6) *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots. Each lot owner shall maintain the lot grade as it relates to storm water drainage, in compliance with the approved construction plans.

(7) *Debris and waste.* No junk, rubbish, or other waste materials of any kind, whether natural (by example: cut trees or timber, debris, rocks) or construction-related (by example: concrete, building materials), shall be buried in any land at any time, nor shall these materials be left or deposited on any lot or street at the time of the release of the maintenance bond. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of dedication of public improvements.

(8) *Waterbodies and watercourses.* No more than twenty-five (25) percent of the minimum lot area required under the applicable zoning ordinance may be satisfied by land that is under water. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other appropriate structure. Such culvert shall be of a design approved by the ~~Department of Capital Asset Management~~ Division of Compliance of the Department of Metropolitan Development.

(c) *Building setback lines.* Minimum building setback lines shall be regulated by the setback provisions of the zoning ordinance applicable to the area proposed to be platted. Setbacks in excess may be platted at the subdivider's discretion, however, such excessive platted setbacks shall not be enforced by the Commission unless such setbacks were required as a part of a commitment, condition, approval, or site plan tied to a land use petition by the applicable public land use policy making body pertaining to the subject site.

(d) *Easements.*

(1) *Drainage.*

a. *General requirements.* When a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse. Such easements shall be of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with vegetative banks and adequate width for maximum potential volume of flow.

b. *Drainage easements.* If any stream or necessary surface watercourse is located in the area to be platted, adequate areas for easements along the sides of such stream or watercourse shall be allocated for the purpose of widening, sloping, improving or protecting the stream or surface watercourse. Such easements shall be a minimum width of fifteen (15) feet.

(2) *Utility.*

a. *Location.* All utility facilities, including but not limited to gas, electric power, telephone, and cable television cables, shall be located underground throughout the subdivision (per Chapter 730, Article IV of this Code). Whenever existing utility facilities are located aboveground, except when located on public streets and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the primary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

b. *Utility easements.* As a general principle, such easements shall be located along both sides of rear lot lines and the total width of such combined lot easements shall be a minimum of ten (10) feet, unless an alternative size is required by the applicable utility or city agency. Note: All easements shall be indicated on the plat.

(e) *Public sites.* All plats submitted for Committee approval under the provisions of these regulations may allocate adequate areas for park, school, recreational and other public and semi-public sites, wherever necessary in conformity with the comprehensive plan and as required by the Commission. The location, shape, extent and orientation of such areas shall be consistent with existing and proposed topographical and other conditions, including, but not limited to, the park, school, recreational and other public and semi-public needs of the proposed subdivision. Such areas shall be made available by one (1) of the following methods:

(1) Dedication to public use.

(2) Reservation for the use of owners of land contained in the plat, by deed restriction or covenants which specify how and under what circumstances the area or areas shall be developed and maintained.

(3) Reservation for acquisition by a governmental unit or agency within a period of nine (9) months, such area to be released for private use:

a. In the event that no governmental unit or agency proceeds with such acquisition within nine (9) months of the date of the recording of said plat; or

b. If released by such governmental unit or agency prior to the expiration of the nine-month period; and

the secondary plat indicates the nature and extent of the private use into which such area may be placed if such area is not used by a governmental unit as specified.

(4) Dedication to use by a bona fide nonprofit organization for recreational, athletic or other community uses by those the organization serves.

Sec. 731-323. Improvements and installations.

Subsections (a) through (j) of this section shall be required for all subdivisions.

(a) *Streets; minimum standards for street design and construction.*

(1) *Public streets.* All streets which are to be dedicated to, and accepted for maintenance by, the applicable municipality shall be graded, constructed and surfaced in accordance with the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code, both documents incorporated into these regulations by reference and made a part hereof.

(2) *Private streets minimum standards for street design and construction.* Any residential development which, through zoning commitment, variance grant, or grant of an approval petition, is allowed the use of private streets (streets which are not be dedicated to or accepted for maintenance by the applicable municipality) shall comply with the minimum standards set forth in Chapter 731, Articles I and II of this Code relative to the design and construction of private streets, incorporated into these regulations by reference and made a part hereof.

(b) *Monuments.* The petitioner shall place permanent reference monuments in the subdivision by a registered Indiana land surveyor as required in these regulations.

(1) *Location of permanent monuments.* Where no existing permanent monuments are found, such monuments shall be installed: Prior to submission of secondary plat for approval:

a. All quarter section corners on the boundaries of or within the area to be platted;

b. At all angle points on exterior boundary lines of the parent tract that coincide or control the location of any liens of the proposed plat; and

c. At the beginning and end of all curves and points of tangency of the perimeter of such plat;

Subsequent to plat recordation and after development:

d. At the intersections of all street center lines within such plat;

e. At both ends of all curves on the center lines of all streets within such plat;

In all instances noted above, the monuments shall be placed not more than six hundred (600) feet apart in any straight line.

(2) *Standards for permanent monuments.* Standards for permanent monuments shall be as follows: A five-eighths-inch or larger diameter metal rod having a metal cap on top showing either the responsible land surveyor's registration number or the Indiana Firm ID No. (865 IAC 1-12-18) and having:

a. For street center line demarcation: a length equal to the thickness of the pavement.

b. For other required monument locations: a length of thirty-six (36) inches.

c. Each monument shall:

1. Be installed so the cross mark shall coincide with the point being marked.

2. Be set flush with the finished grade.

3. Be detectable by a magnetic locator.

4. Be installed in such a manner that they will not be dislodged or removed by frost heave.

(3) *Recordings.*

a. The retracement survey of the parent tract (required by 865 IAC 1-12-19) containing the proposed subdivision, or of that part of such tract controlling the location thereof, shall be executed and recorded in the office of the Marion County Recorder before the secondary plat is submitted to the Commission for approval.

b. All required monuments that are installed subsequent to plat recordation shall be set by a registered Indiana surveyor in compliance with these regulations, the recorded subdivision plat, and the monumentation shown on the previously recorded retracement survey (of the tract containing such plat). The location and detailed description of and reference ties to such subsequent monuments shall be shown on a copy of the recorded plat. Such copy shall be newly certified regarding such monuments by the surveyor, recorded in the office of the Marion County Recorder, and cross-referenced to the original plat. The new certificate regarding these monuments set after plat recordation shall read as follows:

"I, the undersigned Indiana Land Surveyor, hereby certify that the new survey monuments shown on this copy of the previously recorded plat herein were set by me subsequent to the recordation of said plat in accordance with Chapter 731, Article III of the Code Marion County, Indiana.

Dated: _____

Signed (name): _____

PLS Registration No. _____

Seal"

(c) *Street signs.* All street signs shall be designed and built to the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code.

(d) *Culverts.* All culverts shall be designed and constructed in compliance with the Stormwater Design and Construction Specification Manual, City of Indianapolis, Department of ~~Capital Asset Management~~ Public Works and Chapter 561 of this Code.

(e) *Sidewalks.* All sidewalks shall be designed and constructed in accordance with the Standards for Street and Bridge Design and Construction (G.O. 49, 1972/Standards for Acceptance of Streets and Bridges of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code. Sidewalks shall be provided along all streets internal to the subdivision, as well as any existing or proposed perimeter streets which border the subdivision.

(f) *Flood control.* Any development shall comply with all provisions of Chapter 735, Article III of this Code.

(g) *Storm drainage.* All stormwater drainage facilities are to be designed and constructed to the Stormwater Design and Construction Specification Manual, City of Indianapolis, Department of ~~Capital Asset Management~~ Public Works and Chapter 561 of this Code.

(h) *Water supply system.* All public and semi-public water supply systems shall be designed and constructed to the standards of the applicable water utility serving the site. In the case where private wells are permitted by the applicable zoning district, or through a variance grant or grant of an approval petition, such systems shall be designed and constructed to the standards of the Health and Hospital Corporation of Marion County, Indiana, and the Indiana State Board of Health.

(i) *Sewage disposal system.* All sewage disposal systems are to be designed and constructed to The Indianapolis Sanitary District Standards for the Design and Construction of Sanitary Sewers, City of Indianapolis, Department of Public Works and Chapter 671 of this Code. In the instance where septic systems are permitted by the applicable zoning ordinance, or through a variance grant, or grant of an approval petition, such systems shall be: 1) reviewed and approved by; and 2) designed and constructed to the standards of, the Health and Hospital Corporation of Marion County, Indiana (Chapter 14), and the Indiana State Board of Health.

(j) *Street lighting.* Reserved.

SECTION 10. Section 731-332 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 731-332. 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.* 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.

Access. The way by which vehicles shall have ingress to and egress from a land parcel or property and the street fronting along such property or parcel.

Administrator. Administrator of the Division of ~~Neighborhood Services~~ Planning or such division having jurisdiction, or their appointed representative, per IC 36-7-4-710.

Alley. Any 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(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from such lot(s).

Applicant. The owners or owners, legal and equitable, of land within the territorial limits of Marion County, Indiana, who submit an application for plat approval under the provisions of this article.

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.

Collector street. See street, collector.

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

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

Committee. The Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, or, in the case of a combined hearing as permitted under IC 36-7-4 and ~~95-AO-10/G.O. 130, 1995~~ Section 730-200 of this Code, the hearing examiner of the Metropolitan Development Commission.

Comprehensive plan. The Comprehensive Plan for Marion County, Indiana, or segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4.

Condition. An official agreement between the municipality and the petitioner concerning the use or development of the land as specified in the letter of grant of a petition as signed by the Administrator or secretary of the applicable appointed land use body.

Corner lot. See lot, corner.

Covenant. A legal agreement concerning the use of land.

Cul-de-sac. See street, cul-de-sac.

Front lot line. See lot line, front.

Full control of access. The condition where access, including its location, is fully controlled in connection with streets to give preference to through traffic by providing access connections only with selected streets and by prohibiting both crossings at grade and direct driveway connections.

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

Local street. See street, local.

Lot (this article only). That portion of a subdivision proposed to be recorded as a lot of record for the plat.

Lot area. The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street, alley, or easement for surface access (ingress or egress) into the subject lot or adjoining lots.

Lot, corner. A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees (see Diagram D).

Lot, through. A lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot (see Diagram D).

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 of the primary structure shall be considered the front lot line, or so declared by the Administrator (see Diagram C).

Lot of record. A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the office of the Recorder of Marion County, Indiana.

Marginal access street. See street, marginal access.

Partial control of access. The condition where access, including its location, is partially controlled in connection with streets to give preference to through traffic to a degree that in addition to access connections with selected streets, there may be permitted some crossings at grade and some direct driveway connections, with design and location approved by public authority, including the Metropolitan Development Commission of Marion County, Indiana.

Plat. An officially recorded map, as recorded in the office of the Marion County Recorder, or a map intended to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

Proposed right-of-way. See right-of-way, proposed.

Public improvement. Any drainageway or easement, street, culvert, pedestrian way, sidewalk, street sign, monument, flood control or storm drainage system, sewage disposal system, or other facility for which the municipality may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which municipal responsibility is established.

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.

Right-of-way, proposed. Specific and particularly described land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially described in the Marion County Thoroughfare Plan as adopted and amended by the Metropolitan Development Commission.

Secondary plat. A map indicating the subdivision of land, intended to be recorded and prepared in accordance with the requirements of this article.

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

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 (see Diagram B).

Sidewalk. A hardsurfaced walk or raised path along and often paralleling the side of the street intended for pedestrian traffic.

Staff. The staff of the Metropolitan Development Commission of the Department of Metropolitan Development, City of Indianapolis/Marion County, Indiana.

Street, collector. A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets and arterials while allowing direct access to abutting property(ies) (see Diagram E).

Street, cul-de-sac. A street having only one (1) open end which is permanently terminated by a vehicle turnaround (see Diagram E).

Street, expressway. A street so designated by the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Street, freeway. A street so designated by the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Street, local. A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies) (see Diagram E).

Street, marginal access. A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies) (see Diagram E).

Street, parkway. A street serving through vehicular traffic and generally equal to or more than five thousand two hundred eighty (5,280) feet in length, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the Comprehensive Plan and the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Street, primary arterial. A street so designated by the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Street, private. A privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and the like.

Street, public. A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway,

arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and the like.

Street, secondary arterial. A street so designated by the Official Thoroughfare Plan for Marion County, Indiana, as amended.

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.

Subdivision. The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development.

Thoroughfare. A street primarily serving through vehicular traffic, including freeways, expressways, primary arterials, and secondary arterials.

Thoroughfare plan. 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.

Through lot. See lot, through.

Yard, front. An open space unobstructed to the sky, extending 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 (see Diagram C).

(c) *Graphics.*

Item	*Diagram*
Access to areas abutting thoroughfares	A
Curb cut	B
Curb line	B
Driveway	B
Lot	D
Lot, corner	D
Lot, through	D
Lot line, front	C
Setback	B
Setback line	B
Street, collector	E
Street, cul-de-sac	E
Street, local	E
Street, marginal access	E
Yard, front	C

SECTION 11. The Appendix to Chapter 731 of the "Revised Code of the Consolidated City and County," regarding covenants, hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

APPENDIX
COVENANTS

ENFORCEMENT COVENANT

"Metropolitan Development Commission: The Metropolitan Development Commission, its successors and assigns shall have no right, power or authority to enforce any covenants, restrictions or other limitations contained herein other than those covenants, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provision of this article, or any conditions attached to approval of this plat by the Plat Committee."

SITE DISTANCE COVENANT

"Site obstruction: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and nine (9) feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of such street lines, or in the case of a rounded property corner, from the intersection of the street lines extended, the same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage is maintained at a sufficient height to prevent obstruction of such sight lines."

STORM DRAINAGE COVENANT (DRAINAGE AND FLOOD CONTROL)

As stated in section ~~10.5-41~~ 561-232, the owner(s) of this parcel shall include the following covenant on the recorded plat:

"It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Division of Compliance of the Department of ~~Capital Asset Management~~ Metropolitan Development of the City of Indianapolis and the requirements of all drainage permits for this plat issued by such department."

SANITARY SEWER COVENANT

The owner(s) of this parcel shall include the following covenant on the recorded plat, as per section ~~27-157~~ 671-157:

"It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the sanitary sewer construction approved by the Division of Compliance of the Department of ~~Capital Asset Management~~ Metropolitan Development and the requirements of all sanitary sewer construction permits for this plan issued by such ~~Department~~ Division. Owner further covenants that no building, structure, tree or other obstruction shall be erected, maintained, or allowed to continue on the portion of the owner's real estate in which the easement and right-of-way are granted without express written permission, when duly recorded, shall run with the real estate. The Division of Compliance and the Department of Public Works, and ~~its~~ their agents, shall have the right to ingress and egress, for temporary periods only, over the owner's real estate adjoining such easement and right-of-way, when necessary to construct, repair or maintain sanitary sewer facilities."

SECTION 12. Section 732-200 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 732-200. General commercial district regulations.

The following regulations and performance standards shall apply to all land within the commercial zoning districts:

(a) *Applicability of regulations.* After the effective date of this chapter:

(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 chapter.

(2) A lot may be divided into two (2) or more lots, provided that all resulting lots and all buildings thereon shall comply with all the applicable provisions of this chapter. If such a lot, however, is occupied by a nonconforming building, such lot may be subdivided provided such subdivision does not create a new noncompliance or increase the degree of noncompliance of such building.

(3) 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 chapter.

a. *Restoration of legally established nonconforming uses, structures, buildings.* 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 naturally occurring disaster provided the damage or

destruction does not exceed two-thirds (2/3) of the gross floor area of the building or structure affected.

b. *Established setback exception.* In any block in which an existing front yard depth and setback is established (by legally established buildings within a commercial or industrial district) for more than twenty-five (25) percent of the linear frontage of the block (or a distance of two hundred (200) linear feet in either direction, whichever is the lesser), the minimum required front yard depth and setback for any new building or structure, except surface parking lots, shall be the average of such established yards if such dimension is less than the minimum required front setback established by this chapter. Provided, however, that in no case shall a building or structure:

1. Encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana, unless subject to the provisions of section 732-214(a);

2. Encroach upon any existing right-of-way if no proposed right-of-way exists or if the existing right-of-way is greater than the proposed right-of-way; or

3. Encroach into a clear sight triangular area, as required in section 732-214(c).

c. *Expansion along an existing legally established nonconforming front setback line.* The minimum required front setback in any commercial district for any existing building, having a legally established front setback line which is less than the required front setback of the district, shall be modified to permit expansion of such building along the structure's legally established front setback, provided that:

1. Only a one-time expansion along the legally established nonconforming setback line shall be permitted; and

2. The linear front footage of the expansion does not exceed fifty (50) percent of the linear front footage of the existing building, and all other requirements of this chapter are maintained for the expansion.

Provided, however, that in no case shall a building or structure:

Encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana, unless subject to the provisions of section 732-214(a);

Encroach upon any existing right-of-way if no proposed right-of-way exists or if the existing right-of-way is greater than the proposed right-of-way; or

Encroach into a clear sight triangular area, as required in section 732-214(c).

d. *Expansion along an existing legally established nonconforming side setback line.* The minimum required side setback in any commercial district for any existing building, having a legally established side setback line which is less than the required side setback of the district, shall be modified to permit expansion of such building along its legally established nonconforming side setback line between the established front setback line and the established rear setback line provided that:

1. Only a one-time expansion along the legally established setback line shall be permitted; and

2. The linear footage of such expansion does not exceed fifty (50) percent of the linear footage of the building along that side setback line, and all other requirements of this chapter are maintained for the expansion; and

3. This exception shall not apply to required side transitional yards.

e. *Discontinuation of nonconformity.* The lawful nonconforming use or occupancy of any lot, in a commercial district, existing at the time of the effective date of this chapter, may be continued as a nonconforming use, but if such nonconforming use is discontinued for one (1) year, any future use or occupancy of such land shall be in conformity with the use provisions of this chapter.

(4) *Integrated center.* Land uses permitted in a commercial district established by this chapter may be grouped together to create an integrated center in that district. Integrated centers are defined in section 732-217.

(5) *Building or structural height exception.* The following exceptions to the maximum vertical height of buildings and structures shall be permitted:

a. Parapet walls not exceeding two (2) feet in height from the roof line.

b. Roof structures for the housing of elevators, stairways, air conditioning apparatus, ventilating fans, skylights, or similar equipment to operate and maintain the building or structure.

c. Chimneys, flag poles, radio and television antennas, satellite dishes, and other similar structures, not exceeding twenty-five (25) feet in height from the roof line.

(6) *Lot frontage exception.* Any lot recorded or any platted lot recorded prior to ~~the adoption of 92-AO-4,~~ August 2, 1993 having less than the minimum frontage required by the applicable commercial district regulations of this chapter, shall be deemed an exception to such minimum frontage requirement, and a commercial establishment may be constructed thereon provided all other requirements of this chapter, unless specifically excepted in this section, shall be maintained.

(7) *Outdoor retail sales of beverages, flowers and food from carts on sidewalks and public areas.* 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 chapter.

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

a. A nonconforming use in a district of this chapter (as adopted by the Metropolitan Development Commission under docket number 69-AO-1) 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 chapter. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this chapter.

c. This subsection (a)(8) 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 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.

3. Not apply to a property if written records of:

Health and Hospital Corporation of Marion County;

Fire department having jurisdiction over the property;

Local law enforcement agency or agencies having jurisdiction over the property; or

Indiana Department of Environmental Management or Department of Natural Resources;

for the twenty-four-month period prior to October 1, 1996, reflect that there has been a significant violation of laws pertaining to public health or safety or ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance) for activities occurring on the property or the condition of the property.

d. Definition of "significant violation." For purposes of this provision, a violation is defined to be significant as:

Any outstanding violation or three (3) or more separate citations from any of the health and safety agencies referred to in subsection (a)(8)c.3.; or

Any citation or violation of Sections 302, 304, 310, 311, 313, and 701 of Chapter 10 of the Code of the Health and Hospital Corporation of Marion County, Indiana (Housing and Environmental Standards Ordinance); or

One (1) or more convictions of a tenant, owner or lessee for criminal activities occurring on the property.

(9) *Compliance with Chapter 731, Article III.* 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 commercial district, as noted in this chapter, which permits single-family or two-family dwellings. Specifically, the applicable district is the C-S (special commercial) classification, if single- or two-family dwelling development is approved as a permitted use.

Condominium development shall not be regulated by Chapter 731, Article III of this Code, but shall be regulated per IC 32-1-6.

(10) *Chapter 735, Article IX.* In any commercial district, a wireless communication facility (as defined in, and subject to the additional regulations of, Chapter 735, Article IX of this Code),is permitted.

(b) *Performance standards.* All uses established or placed into operation after April 8, 1969, shall comply with the following performance standards. No use in existence on the effective date of this chapter shall be so altered or modified as to conflict with these standards.

(1) *Vibration.* No use shall cause earth vibration 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, which ordinance is on file in the office of the Division of ~~Neighborhood and Development Services~~ 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 and 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 of Indianapolis, Indiana, or in such a manner as to endanger the public health, safety or welfare or cause injury to property.

(c) *Prohibited uses (G.O. 92, 1994).* Uses for which the following Special Use Districts are provided, under Chapter 735, Article VII of this Code, shall not be permitted in any commercial zoning district created under this chapter:

SU-8	Correctional and penal institution
SU-10	Cemetery
SU-13	Sanitary landfill
SU-18	Light or power substation
SU-23	Permanent gravel or sand processing plant, rock crushing, grinding or milling and stockpiling
SU-28	Petroleum refinery and petroleum products storage
SU-35	Telecommunication receiving or broadcasting tower and associated accessory buildings
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.

SECTION 13. Sections 732-211 through 732-214 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 732-211. Off-street parking regulations.

All off-street parking areas for motor vehicles accessory to the uses in the commercial districts shall be provided in accordance with the following regulations. However, commercial parking facilities, including attendant parking, shall be subject to the provisions of Chapter 931 of this Code, and shall not be subject to the development standards of this chapter other than the minimum setback requirements of the applicable district.

(a) *Application of regulations.*

(1) *Buildings, structures, uses established hereafter - exception for permits previously issued:* For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking facilities shall be provided in accordance with the regulations of this section. However, where improvement location and building permits have been issued prior to the effective date of this chapter, and provided that construction has begun within six (6) months of such effective date and diligently prosecuted to completion (but such time period not to exceed two (2) years after the issuance of such building permit), parking facilities in the amounts required for issuance of such permits may be provided in lieu of any different amount required by the off-street parking regulations of this chapter.

(2) *Buildings, structures, uses existing or hereafter established - increased intensity of use:* When the intensity of use of any legally established building, structure or premises (existing on the effective date this chapter or hereafter established) is increased resulting in a net increase of

gross floor area or any other unit of measurement specified herein for determining required parking areas, parking spaces and any other facilities as required herein shall be provided for such increase in intensity of use. However, no building or structure lawfully erected, or use lawfully established, prior to the effective date of this chapter shall be required to provide such additional parking spaces or areas, unless and until the aggregate increase in any unit of measurement specified herein for determining required parking spaces causes an increase in the required number of parking spaces that equals fifteen (15) percent or more of the number of parking spaces existing on the effective date of this chapter, in which event parking spaces and areas as required herein shall be provided for the total increase.

(3) *Change of use:* Whenever the type of use of a building, structure or premises is hereafter changed to a new type of use permitted by this chapter, parking spaces and areas shall be provided as required by the provisions of this chapter for such new type of use, subject to the exception noted in section 732-211(a)(2).

(4) *Existing parking areas:* Required accessory off-street parking areas in existence on the effective date of this chapter shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirements for such use as would be required for such use as a new use of a building, structure or premises under the provisions of this chapter.

(5) *New or expanded parking areas:* Nothing in this chapter shall prevent the establishment of, or expansion of the amount of, parking areas to serve any existing use of land or building, provided that all other regulations herein governing the location, design, landscaping, construction and operation of such areas shall be adhered to.

(b) *Location.*

(1) Accessory off-street parking areas shall be provided on the same lot as the building or use served, or as provided in section 732-211(c) below, and shall not be located within the public right-of-way.

(2) Accessory parking areas shall be located in a commercial district which permits the primary use or the I-3, I-4, and I-5 industrial suburban and urban districts.

(3) Any accessory parking area located in a different district than that of the primary use must comply with the development standards for the district in which the parking area is located.

(c) *Common or combined off-street accessory parking areas.* Common or combined accessory off-street parking areas may be provided to serve two (2) or more primary buildings or uses, provided such common or combined accessory off-street parking areas shall:

(1) Be so planned, designed, constructed and maintained as to create a desirable, efficient and well planned off-street parking area with functional and aesthetic value, attractiveness and compatibility with adjacent land uses, and consistent with the character of the district within which it is located.

(2) Be located within five hundred (500) feet of the primary uses served, measured from the nearest point of the parking area boundary to the primary use served.

(3) At all times have the minimum total number of spaces that is equal to the sum of the minimum required parking spaces for the use (if freestanding), or integrated center (see Table 2.10-A, #28.). No parking space for one (1) use shall be included in the calculation of parking space requirements for any other use.

(4) File a site and development plan for any common or combined parking area(s) with the division of ~~neighborhood and development services~~ planning for approval by the Administrator prior to the issuance of an Improvement Location Permit. Such site and development plan shall indicate:

a. Adjacent streets, alleys and lots;

b. Uses to be served, including the location, use (e.g., employee, customer, etc.) and number of parking spaces for each such use as required by section 732-211(k) hereof;

c. Access drives, driveways, interior access driveways and acceleration/deceleration lanes;

d. The parking area layout, including parking areas, parking spaces, total number of parking spaces and dimensions thereof;

e. Distances to the primary uses served (see section 732-211(c)(2) for distance measurement);

f. All landscaping and screening, walls and fences; proposed lighting, if any; and type of paving proposed;

g. Location of signs;

h. Location and type of parking space barriers or curbing, if any; and

i. All other requirements of Chapter 730, Article III.

Such site and development plan shall demonstrate compliance with all applicable standards of this chapter. Such site and development plan shall be amended and resubmitted for Administrator's approval to indicate any change or other modification of uses served as may be required by section 732-211(a)(2) or (3) or number of parking spaces provided therefor, prior to obtaining a new Improvement Location Permit.

Common or combined off-street accessory parking area shall be developed, maintained and used only in accordance with such approved site and development plan and all other requirements of this chapter.

(d) *Minimum parking lot and parking space dimensions.*

(1) The interior access drives, interior access driveways, drives, driveways, entrances, exits, aisles, bays and traffic circulation for parking lots and parking garages shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the office of the division of ~~neighborhood and development services~~ planning and is hereby incorporated by reference and made a part hereof); except that minimum parking space (or stall) dimensions shall be as set forth below.

(2) Each off-street parking space shall have, regardless of angle of parking, a usable parking space dimension measuring not less than nine (9) feet in width (measured perpendicularly from the sides of the parking space) and not less than eighteen (18) feet in length; provided, however, that the total usable parking space area shall be, in no instance, less than one hundred eighty (180) square feet in total area.

Exceptions:

a. All required parking spaces for any use allowing shopping carts to be removed from the interior of the establishment (i.e., grocery store) shall have a usable parking space dimension measuring not less than ten (10) feet in width (measured perpendicularly from the sides of the parking space) and not less than eighteen (18) feet in length; provided, however, that the total usable parking space area shall be at least one hundred eighty (180) square feet. The required parking spaces for such uses shall be located within five hundred (500) feet of the front entrance of the establishment.

b. All parking spaces reserved for the use of physically handicapped persons shall have a usable parking space dimension measuring not less than thirteen (13) feet in width (measured perpendicularly from the sides of the parking space) and not less than twenty (20) feet in length (see also section 732-211(l), required parking spaces for the disabled).

(e) *Access to and from parking areas.*

(1) Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

(2) All off-street parking spaces or areas shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access. Off-street parking spaces and areas shall be designed and located so that vehicles shall not back from or into a public street or adjoining property.

(f) *Use of parking areas.*

(1) The parking area shall not be used for the storage, display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or material. The parking area shall not be used for the storage of any commercial or inoperable vehicles.

(2) Buildings or structures for guards, attendants or watchmen shall be permitted; however, any such structure shall not occupy a required off-street parking space(s) and shall comply with all setback requirements.

(3) Loading spaces and maneuvering area, as required in section 732-212, shall not constitute a required off-street parking space; nor shall any off-street parking area be used as a loading space or area.

(g) *Surface of parking area.*

(1) Off-street parking spaces may be open to the sky, covered, or enclosed in a building. In any instance where a building is constructed or used for parking, it shall be treated as any other building or structure and subject to all use and development standards requirements of the applicable commercial district in addition to the requirements contained herein.

(2) All off-street parking areas, and the access to and from such areas, shall be hardsurfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one (1) year after the commencement of the use for which the parking areas is provided, where ground or weather conditions are not immediately suitable for permanent surfacing as specified above.

(3) The surface shall be graded, constructed and drained in such a manner that there will be no detrimental flow of water onto sidewalks.

(4) The parking area(s), where abutting a required landscaped yard or area, shall be designed and constructed in such a manner that no part of any parked vehicle shall extend beyond the boundary of the established parking area into any minimum required landscaped yard or area or onto adjoining property.

(h) *Marking of parking spaces.* All parking spaces shall be marked by durable painted lines at least four (4) inches wide and extending the length of the space or by curbs or other means to indicate individual spaces. Signs or markers located on the pavement surface within a parking lot may be used as necessary to ensure efficient and safe traffic operation of the lot.

(i) *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 footcandles (as specified in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the office of the Division of ~~Neighborhood and Development Services~~ Planning of the Department of Metropolitan Development and is hereby incorporated by reference and made a part hereof).

(j) *Landscaping.* All parking areas in excess of one hundred (100) spaces shall be landscaped in accordance with section 732-214(g)(3) (additional landscaping requirements - interior of parking lots).

(k) *Amount of parking spaces required.*

(1) Off-street parking spaces shall be provided and maintained for uses in the commercial district in accordance with the minimum requirement set forth in Table 2.10-A.

(2) when a computation of required parking spaces results in a fraction of one-half (1/2) or greater, the number of required parking spaces shall be rounded up to the next whole number.

TABLE 2.10-A MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED BY USE

Use	*Minimum parking requirement*
1. Any amusement establishments (commercial, recreational) involving the assembling of persons (unless otherwise specified in this table):	
a. Indoor	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
b. Outdoor	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each four hundred (400) square feet of site area accessible to the public, exclusive of the parking area.
2. Assisted-living facility	Total car ratio (TCR) - assisted-living facilities: 0.500. In addition, one (1) visitor parking space shall be provided per six (6) dwelling units; plus one (1) parking space per employee on duty during the peak work shift.
3. Auto, truck or motorcycle sales or repair:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus one (1) space for each two hundred (200) square feet of interior sales and display area, plus one (1) space for each seven thousand (7,000) square feet of outdoor display area.
4. Banking: bank, savings and loan, credit union	
a. Combined drive-through and walk-in facilities	One (1) parking space for each two hundred fifty (250) square feet of gross floor area. (Also subject to the drive-through requirements of section 732-213).
b. Drive-through facility only	One (1) parking space for each employee per largest work shift, plus a minimum of three (3) additional parking spaces. (Also subject to the drive-through requirements of section 732-213).
c. Walk-in facility only	One (1) parking space for each two hundred (200) square feet of gross floor area.
5. Bowling alleys:	a. Four (4) parking spaces for each alley/lane.
	b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the bowling alley, such as restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for uses located within or operated in conjunction with the bowling alley.
6. Churches/synagogues, auditoriums, assembly halls, recital halls:	One (1) parking space for each four seats at maximum calculated capacity.
7. Community centers, museums, civic clubs, philanthropic and eleemosynary institutions:	One (1) parking space for each four hundred (400) square feet of gross floor area.
8. Convenience market	One (1) parking space for each two hundred eighty-five (285) square feet of gross floor area. Parking spaces at gasoline pumps may be included in the calculation of required parking.

9. Day nurseries, day care centers, kindergartens, nursery schools:	One (1) parking space for each employee per largest work shift, plus one (1) parking space for each five hundred (500) square feet of gross floor area.
10. Fire station:	One (1) parking space for each two (2) employees on the premises during the largest work shift, plus a minimum of three (3) additional parking spaces.
11. Furniture/floor or wall covering store	One (1) parking space for each four hundred (400) square feet of gross floor area.
12. Gasoline service stations, tire and auto service center, other auto service functions:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus three (3) customer spaces, plus one (1) space for each three hundred (300) square feet of gross floor area devoted to retail sales.
13. Gasoline service station/convenience market	Same as (8) convenience market.
14. Grocery store/supermarket	One (1) parking space for each one hundred fifty (150) square feet of gross floor area.
15. Hardware/paint/home improvement store	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each one thousand (1,000) square feet of the facility devoted to outside operations or storage, exclusive of the parking area.
16. Health spa/sports club	a. One (1) parking space for each two hundred (200) square feet of gross floor area.
	b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the health spa or sports club, such as dining areas, restaurants, night clubs, retail stores and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the health spa or sports club).
17. Hotels, motels:	a. One (1) parking space for each rental sleeping unit.
	b. If, in addition to sleeping units, there are other uses or accessory uses located within or operated in conjunction with the hotel or motel, such as ballrooms, meeting rooms, dining areas, retail stores, auditoriums, restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided. (Calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the hotel or motel).
18. Library	One (1) parking space for each four hundred (400) square feet of gross floor area.
19. Medical, dental, optometrists clinics/offices:	One (1) parking space for each two hundred (200) square feet of gross floor area.
20. Mini-warehouses	Three (3) parking spaces for each office, plus one (1) parking space per each employee based on the largest work shift, plus one (1) parking space per resident/manager, plus one (1) parking space for each thirty (30) storage units. Required off-street parking spaces shall not be utilized as rental or leased spaces.

21. Miniature golf	Four (4) parking spaces for each golf hole, plus one (1) parking space per each employee based on the largest work shift, plus one (1) space per each one hundred (100) square feet devoted to accessory retail or amusement establishments.
22. Mortuary, funeral service, crematories	One (1) parking space for each fifty (50) square feet of floor area in parlors and assembly rooms.
23. Nursing and convalescent homes, homes for the aged, sanitariums, rehabilitation centers	One (1) parking space for each three (3) patient beds, plus one (1) parking space for each two (2) employees and each two (2) staff doctors on the premises during the largest work shift.
24. Office commercial use, general: (To include, but not be limited to business, professional office, post office, office park, research center)	Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross floor area.
25. Racquetball/tennis courts/club facilities	One (1) parking space per employee, plus four (4) parking spaces per game court, plus one (1) parking space for each two hundred (200) square feet of the remaining floor area in the building devoted to retail activities.
26. Restaurant:	
a. Family	One (1) parking space per employee per largest work shift plus one (1) parking space for each four (4) customer seats.
b. Fast food, with or without drive-through	One (1) parking space per employee per largest work shift plus one (1) parking space for each three (3) customer seats. Provided, however, in no case shall any such use provide less than five (5) parking spaces (also subject to the drive-through requirements of section 732-213).
c. Fast food, drive-through only (no seating)	One (1) parking space per employee per largest work shift plus a minimum of three (3) additional parking spaces (also subject to the drive-through requirements of section 732-213).
27. Taverns and night clubs	One (1) parking space per employee per largest work shift plus one (1) parking space for each seventy-five (75) square feet of gross floor area.
28. Retail or service commercial uses - individual, freestanding uses: including but not limited to: Bakeries; drugstores; beauty and barber shops; package liquor stores; laundromats, photo studios; jewelry, gift, appliance and similar stores; personal service shops	Three and one half (3.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required for any individual, freestanding retail or service commercial use unless listed separately in this section, in which case the parking requirement noted for that specific use shall be utilized. Provided, however, that in no case shall any individual use provide less than five (5) parking spaces.
29. Retail or service commercial uses - integrated centers (as defined in section 732-217)	a. If the total gross leasable area of an integrated center is less than four hundred thousand (400,000) square feet, four (4) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required;
	b. If the total gross leasable area of an integrated center is greater than four hundred thousand (400,000) square feet, but less than six hundred thousand (600,000) square feet, four and one half (4.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.

	c. If the total gross leasable area of an integrated center is greater than six hundred thousand (600,000) square feet, five (5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required. Provided, however: (1) In no case shall any individual use provide less than five (5) parking spaces; and (2) The following individual uses: grocery store/supermarket; theatres - motion picture or legitimate; bowling alley; or night club, shall provide parking spaces as required for the individual use by this section and such calculation shall be separate from the calculation of the gross leasable area calculation of the integrated center.
30. Roller/ice skating rink	One (1) parking space for each two hundred (200) square feet of gross floor area in the building.
31. Schools: business, technical, trade, and vocational	One (1) parking space for each one hundred (100) square feet of gross floor area in the building, or one (1) parking space per each twenty-five (25) square feet of classrooms, whichever provides the greatest number of spaces.
32. Theatres: motion picture or legitimate	One (1) parking space for each three (3) seats.
33. All uses permitted in the C-ID Commercial-Industrial District:	One (1) parking space for each two (2) employees per largest work shift, plus five (5) customer spaces. Any floor area in the establishment devoted to retail sales shall require additional customer parking spaces in the amount specified elsewhere in this section for the type of retail sales involved.
34. Uses not specified	For any commercial district use not specified above, specific requirements shall be determined by the Administrator and shall be based upon requirements for similar uses, expected demand and traffic generated by the proposed use, and other information from appropriate traffic engineering and planning criteria.

(l) *Required parking spaces for the disabled.* Every parking facility available to the public shall have parking spaces reserved for the use of physically handicapped persons, as defined in section 732-217, according to the following schedule:

Total Required Number of Parking Spaces in Facility	*Minimum Number of Reserved Spaces*
0 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	Two (2) percent of the total number of parking spaces.
1000 and over	Twenty (20), plus one (1) for each one hundred (100) spaces over one thousand (1,000).

Parking spaces reserved for the use of the physically handicapped persons shall count towards the minimum number of off-street parking spaces required in section 732-211, Table 2.10-A.

The dimensions of parking spaces reserved for the use of physically handicapped persons shall be those noted in section 732-211(d)(2)b.

(m) *Parking reduction provision.* The Administrator may authorize reductions, beyond those available in section 732-211(c), up to ten (10) percent of the maximum number of parking spaces required for (a) use(s) which require four hundred (400) or more parking spaces, if access is provided to public transportation.

Sec. 732-212. Off-street loading regulations.

All off-street loading facilities accessory to uses in the commercial districts shall be provided and maintained in accordance with the following regulations.

(a) *Minimum loading area dimensions.*

(1) A required off-street loading space shall be at least twelve (12) feet in width by at least fifty-five (55) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fifteen (15) feet.

(2) The interior access drives, interior access driveways, driveways, aisles, berths and vehicular circulation and maneuvering for loading areas shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the office of the division of ~~neighborhood and development services~~ planning and is hereby incorporated by reference and made a part hereof).

(b) *Access to and from loading area.*

(1) Each required off-street loading space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such loading space.

(2) All off-street loading facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access.

(c) *Location and setback.*

(1) All required off-street loading spaces shall be located on the same lot as the use served, and shall be designed and located so that trucks shall not back from or into a public street or adjoining property.

(2) No open loading area or loading space shall be located in a required minimum front, side or rear yard or a required transitional yard.

(d) *Screening.* All vehicle loading spaces on any lot abutting a protected district or separated by a public right-of-way from a protected district shall be enclosed within a building or screened and landscaped in addition to the commercial district's regulations for screening and landscaping transitional yards. Such screening and landscaping shall be installed as required in section 732-214(g).

(e) *Use of loading area.* Space allotted to off-street loading spaces and maneuvering area shall not be used to satisfy the off-street parking space requirements.

(f) *Surface of loading area.*

(1) Off-street loading spaces may be open to the sky, covered or enclosed in a building. In any instance where a building is constructed or used for loading, it shall be treated as any other structure and subject to all use and development standards of the applicable commercial districts in addition to these requirements contained herein.

(2) All loading areas shall be hardsurfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a temporary period not to exceed one (1) year after

commencement of the use for which the loading area is provided, where ground and weather conditions are not immediately suitable for permanent surfacing as specified above.

(3) The surface shall be graded, constructed and drained in such a manner that there will be no detrimental flow of water onto sidewalks.

(g) *Lighting of loading area.* When lighting facilities are used to illuminate a loading area, the lighting equipment shall be located, shielded and directed so that the lighting distribution is confined to the area to be lighted. Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.

(h) *Amount of loading area required.* Off-street loading space shall be provided and maintained in accordance with the following minimum requirements:

(1) For each retail store, planned shopping center or commercial establishment, having an aggregate gross floor area of:

a. Under ten thousand (10,000) square feet: No loading space

b. Over ten thousand (10,000) square feet but not over twenty-five thousand (25,000) square feet: One (1) loading space

c. Over twenty-five thousand (25,000) square feet but not over sixty thousand (60,000) square feet: Two (2) loading spaces

d. Over sixty thousand (60,000) square feet but not over one hundred twenty thousand (120,000) square feet: Three (3) loading spaces

e. Over one hundred twenty thousand (120,000) square feet but not over two hundred thousand (200,000) square feet: Four (4) loading spaces

f. Over two hundred thousand (200,000) square feet but not over two hundred ninety thousand (290,000) square feet: Five (5) loading spaces

g. For each additional ninety thousand (90,000) square feet exceeding two hundred ninety thousand (290,000) square feet or fraction thereof: One (1) additional loading space

(2) For each auditorium, hotel, apartment, office building or similar use, having an aggregate gross floor area of:

a. Under ten thousand (10,000) square feet: No loading space

b. Over ten thousand (10,000) square feet but not over forty thousand (40,000) square feet: One (1) loading space

c. For each additional sixty thousand (60,000) square feet exceeding forty thousand (40,000) square feet or fraction thereof: One (1) additional loading space

(3) For any C-ID District use, having aggregate gross floor area of:

a. Under forty thousand (40,000) square feet: One (1) loading space

b. Over forty thousand (40,000) square feet but not over one hundred thousand (100,000) square feet: Two (2) loading spaces

c. Over one hundred thousand (100,000) square feet but not over two hundred thousand (200,000) square feet: Three (3) loading spaces

d. For each additional two hundred thousand (200,000) square feet exceeding two hundred thousand (200,000) square feet or fraction thereof: One (1) additional loading space

(4) For assisted-living facilities: Provide an off-street loading area for the delivery of goods and supplies for projects involving more than fifteen (15) units.

(5) For any commercial district use not specified above, the off-street loading requirements for a specified use to which such use is most similar shall apply.

Sec. 732-213. Drive-through off-street stacking space regulations.

(a) *General provisions.* The purpose of off-street stacking space regulations is to promote public safety by alleviating on-site and off-site traffic congestion from the operation of a facility which utilizes a drive-through service unit. Any use having a drive-through service unit shall provide the required off-street stacking area on-site to minimize off-site traffic congestion while waiting for service. Each drive-through service unit shall provide stacking spaces as follows:

(1) Each stacking space shall be not less than eight and one-half (81/2) feet in width and seventeen and one-half (171/2) feet in length, with additional spaces for necessary turning and maneuvering.

(2) The area required for stacking spaces shall be exclusive of and in addition to any required parking space, loading space, driveway, aisle and required yard, unless specifically noted.

(3) A parking space at any component of a drive-through service unit (window, menu board, order station, or service bay) shall be considered to be a stacking space.

(4) An area reserved for stacking spaces shall not double as a circulation driveway or maneuvering area.

(5) Sites with stacking spaces shall include an exclusive bypass aisle, driveway or other circulation area in the parking lot design to allow vehicles to bypass the stacking area.

(6) A drive-through service unit may project up to one (1) foot into the stacking area.

(7) A drive-through service unit shall not be permitted on the side or rear of a building, or within the side or rear yard of a building, which abuts a protected district unless the side or rear setback of each component of a service unit is located more than one hundred (100) feet from the protected district.

(8) Drive-through service units may contain more than one (1) component part. Service units may contain such components as menu board(s), pay windows, and food-service pickup windows. To determine the number of off-street stacking spaces located before a service unit, the final component of the service unit shall be used in determining the location of the required off-street stacking spaces. In the case of car washes, the final component of a service unit is the entrance to the car wash building itself.

(b) *Site plan submission.* All required off-street stacking spaces and circulation pattern(s) shall be demonstrated on the site plan that is submitted at the time of filing for an Improvement Location Permit. The submitted site plan shall also delineate:

(1) All existing and proposed points of ingress and egress, circulation and maneuvering areas, off-street parking and loading areas; and

(2) Separately tabulate the number of required off-street parking, loading, and stacking spaces in a conspicuous place on the plan for easy reference.

Prior to obtaining an Improvement Location Permit, the site plan shall be forwarded to the ~~Department of Transportation~~ division of compliance for its review and comment.

(c) *Required stacking spaces.*

(1) *Bank (including ATM's):* Six (6) spaces before the final component of each service unit; one (1) space after each service unit.

(2) *Drive-in theatre:* Before the ticket service window or area, stacking space shall be equal to twenty (20) percent of the total off-street parking capacity of the theatre. The in-bound reservoir area shall not connect or conflict in any way with exit driveways.

(3) *Car washes:*

a. Self-service or hand wash: Three (3) spaces before the final component of each service unit; two (2) spaces at the exit of each unit.

b. Semi- or fully automatic: Twenty (20) spaces before the final component of each service unit; six (6) spaces reserved for vacuuming or drying of automobiles may count in the exit stacking figure. Parking spaces not required for off-street parking spaces may be utilized for the stacking space calculation.

(4) *Restaurants:*

Number of Drive-Through Service Units	*Total Number of Stacking Spaces Required*
One (1)	Six (6) spaces before the final component of the service unit; two (2) spaces at the exit of the unit.
Two (2)	Eight (8) spaces before the final component of each service unit; two (2) spaces at the exit of each unit
For each additional drive-through service unit	Four (4) spaces before the final component of each additional service unit and one (1) space at the exit of each unit.

(5) *All other facilities utilizing a drive-through service unit.* Including, but not limited to laundry and dry cleaning stations, photo drop-off/pick-up stations, automobile oil change or lubrication facilities: Three (3) spaces before the final component of the service unit; one (1) space at the exit of each service unit.

Sec. 732-214. Special regulations.

(a) *Minimum front setback lines and front yards.* Front setbacks, having a minimum depth in accordance with the following setback standards, shall be provided along all public and private street right-of-way lines, and the minimum required building setback lines shall be as follows:

(1) No part of any building shall be built closer to the proposed right-of-way lines of the following streets than:

Ten (10) feet from the proposed right-of-way or seventy (70) feet from the center line, whichever is greater.	Expressway, freeway, primary arterial, parkway, secondary arterial (as designated on the Official Thoroughfare Plan for Marion County, Indiana)
Ten (10) feet from the proposed right-of-way.	Collector street, local street, marginal access street (including marginal access streets with a coinciding right-of-way boundary immediately paralleling either a federal interstate highway route or any thoroughfare), cul-de-sac or any private street.

Subject to the following:

a. Any required front transitional yard shall have a minimum depth of twenty (20) feet, rather than ten (10) feet. However, there shall be no transitional yard requirement for expressways, freeways or primary arterials, which shall only be required to provide the required front yard setback of ten (10) feet.

b. The required front yard and setback shall be located outside of and adjacent to the proposed right-of-way line of the street while paralleling and extending the full length of such right-of-way line, except when interrupted by driveway(s).

c. The uses of required front yards and required transitional yards shall be those permitted in the provisions of the use of required yards and required transitional yards sections of the applicable commercial zoning district.

d. Canopies, eaves, cornices or other laterally supported extensions may extend a maximum of four (4) feet into a required front yard.

e. In the case where a proposed right-of-way line does not exist, as determined by the Official Thoroughfare Plan for Marion County, Indiana, or where the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

(2) No part of any structure, including parking areas, parking spaces, interior access drives, and interior access driveways, shall be built closer than twenty (20) feet to the right-of way line of a federal interstate highway route.

(3) Structures, including parking areas, parking spaces, interior access drives and interior access driveways may be located within the front setback in an area designated as proposed right-of-way under the following provisions:

a. *Streets not designated as a priority in the Official Thoroughfare Plan for Marion County, Indiana.* A required landscape strip shall be provided, measured from the existing right-of-way, and shall have a minimum depth of ten (10) feet. The required landscape strip shall be located outside of and adjacent to the existing right-of-way line of the street while paralleling and extending the full length of such right-of-way, except when interrupted by driveway(s).

b. *Streets designated as a priority in the Official Thoroughfare Plan for Marion County, Indiana.* A required landscape strip shall be provided, measured from the existing right-of-way, and shall have a minimum depth of ten (10) feet. The required landscape strip shall be located outside of and adjacent to the existing right-of-way line of the street while paralleling and extending the full length of such right-of-way line, except when interrupted by driveway(s).

In addition, sufficient off-street parking shall be provided on the site outside of the proposed right-of-way so that the applicable off-street parking requirements for the use(s) are met.

In addition, if the Department of ~~Transportation~~ Public Works would acquire the proposed right-of-way for thoroughfare development or expansion, the Department of ~~Transportation~~ Public Works shall have no obligation to pay for any structure located within the proposed right-of-way.

In the event of dedication of right-of-way as a result of rezoning or other methods for both nonpriority and priority streets, such dedication shall not alleviate the right to use the right-of-way in the manner provided above, until such time as the Department of ~~Transportation~~ Public Works determines that the additional right-of-way is needed for widening.

(b) *Integrated shopping center or complex - plan requirements for Improvement Location Permit issuance:* Prior to Improvement Location Permit issuance for any building or structure within an integrated shopping center or complex, three (3) copies of the site plans and landscape plans for the entire integrated center shall be on file with the Department of Metropolitan Development.

(c) *Street requirements:*

(1) *Clear sight triangular area.* The following provisions shall apply to all streets, whether public or private: All landscape plantings, structural barriers, shrubs, trees, structures or other objects, temporary or permanent, shall permit completely unobstructed vision within a clear sight triangular area between the heights of two and one-half (21/2) and nine (9) feet above the crown of the streets, drives, or driveways. A clear sight triangular area shall be established as one of the following (see section 732-217, Diagram E):

a. On a corner lot, the clear sight triangular area is formed by the street right-of-way lines, the pavement edge of the drives or driveways and the line connecting points twenty-five (25) feet from the intersection of such street right-of-way lines and pavement edge lines; or in the case of a round or cut property corner, from the intersection of the street right-of-way lines and pavement edge lines extended; or

b. On a lot adjacent to an at-grade railroad crossing, the clear sight triangular area is formed by the lot line coterminous with the railroad right-of-way, the street right-of-way line or pavement edge line, and the line connecting points twenty-five (25) feet from the intersection of such lines; or

c. On a lot which has a driveway, abuts an alley or which is next to a lot which has a driveway, the two (2) clear sight triangular areas are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and

the line connecting points ten (10) feet from the intersection of the street right-of-way line and driveway or alley lines extended.

(2) *Requirements for public streets.*

a. All public streets shall be dedicated to the public, accepted for public maintenance by the Department of ~~Transportation~~ Public Works, and improved and constructed in accordance with the standards required by the ~~Indianapolis~~ Department of ~~Transportation~~ Public Works Standards for Street and Bridge Design and Construction, or as approved by the director of the Department of ~~Transportation~~ Public Works.

b. The right-of-way of any streets within an integrated center which are indicated on the Official Thoroughfare Plan for Marion County, Indiana, or which has been required by zoning, variance, or platting commitment, condition or covenant to be developed as public streets, is to be constructed to specific standards based upon their proposed functional classification and shall be dedicated to the public, or the right-of-way thereof shall be reserved for the future.

(3) *Requirements for private streets, driveways, interior access driveways and interior access drives:*

a. All private streets, driveways, interior access driveways and interior access drives shall meet the minimum standards for construction, materials or use in construction and design as specified by the "Standard Specifications," Indiana Department of Transportation (8-17-1-39), 1988 Edition, the Indiana Department of Transportation Supplemental Specifications, and the Indianapolis Department of ~~Transportation (IDOT)~~ Public Works (DPW) Standards for Street and Bridge Design and Construction. In the event ~~DOT~~ DPW specifications conflict with the IDOT Standard Specifications, the most stringent specifications shall govern.

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

Provided, however, that the standard specifications incorporated into this chapter shall be modified as follows:

Private interior streets, private interior access drives and private interior access driveways shall have a minimum width, including gutters, curbing, and off-street parallel parking spaces, if provided, of:

One-way, no parking: twelve (12) feet

One-way, parallel parking on one (1) side of the street only: twenty (20) feet

Two-way, no parking: twenty (20) feet

Two-way, parallel parking on one (1) side of the street only: twenty-seven (27) feet

Two-way, parallel parking on both sides of the street: thirty-six (36) feet

b. Private streets, interior access drives and interior access driveways shall be privately maintained (not by governmental agencies) in good condition and free of chuckholes, standing water, weeds, dirt, trash and debris.

c. Interior access drives and driveways shall be designed and maintained with sufficient width to provide for the passage of emergency vehicles at all times.

d. Private streets, interior access drives and interior access driveways within any commercial zoning district may be used to provide ingress and egress to any other commercial zoning district and to any other zoning district having a less intense use, which would include all protected districts.

(d) *Requirements for recycling operations and containers:*

(1) *Requirements for recycling center operations.* Materials permitted for collection at neighborhood recycling collection points and recycling stations as defined in section 732-217, located within a C-3, C-3C or C-4 commercial district shall include the following:

- aluminum cans

- plastics

- paper products

- tin and metal cans

- glass containers

In addition to the materials listed above, other household scrap and minor automobile parts made of aluminum, brass, copper, or steel may also be collected at these facilities in the C-3, C-3C and C-4 commercial districts. However, all materials collected for delivery to the recycling facilities in the C-3, C-3C and C-4 commercial districts shall be in amounts that allow delivery by vehicles which do not exceed a maximum load capacity of three-quarters of a ton. All deliveries that necessitate the use of vehicles in excess of this size shall be required to deliver the recyclable materials to a more intensive recycling facility. This restriction is intended to protect the community character of the C-3, C-3C and C-4 commercial districts and minimize traffic created by larger hauling vehicles.

In the C-3, C-3C and C-4 commercial districts, those collection points and recycling stations that utilize a trailer as its primary structure shall be limited to one (1) trailer per site. The facility shall be manned during all hours of operation and located during off hours. In addition to these requirements, the requirements for recycling containers (as specified in section 732-214(d)(2)) shall also apply to trailer facilities.

In addition to those requirements outlined for recycling activities in the C-3, C-3C, and C-4 districts, recycling activities permitted within the C-5, C-6, C-7 and C-ID commercial districts shall also be within a completely enclosed structure and may include the crushing or compacting of the recyclable materials in order to facilitate their handling and transport. This processing step is considered to be an incidental aspect of a recycling operation, rather than a characteristic of the use itself.

(2) *Requirements for recycling containers.* Recycling containers as defined in section 732-217 shall be subject to the following requirements:

a. The use or structure shall not be located within any required yard or required transitional yard or within any street right-of-way and shall meet the minimum setback requirements of the district.

b. When the structure is an accessory use located in the parking area of the primary use, the structure shall be located completely within a striped, off-street parking space(s) on the site and shall not be within a drive or maneuvering area.

c. A minimum of three (3) off-street parking spaces shall be provided on site. These off-street parking spaces are in addition to the required parking provided for the primary use. A suitable maneuvering area for access and turning shall also be provided as specified in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper John Wiley and Sons, Inc., New York, New York.

d. All recyclable materials shall be stored within a recycling container and the surrounding lot areas shall be maintained free of litter and debris on a daily basis.

e. The recycling containers shall be clearly marked to identify the type of material which may be deposited; and the name and telephone number of the operator and the hours of operation, and shall display a notice stating that no material shall be left outside the recycling containers.

f. The recycling container shall not reduce the amount of any required landscaping as provided by this chapter for the primary or accessory use.

g. The recycling containers shall be emptied or exchanged with a new container at or before the time the existing container becomes completely filled.

h. The recycling container shall not be located within one hundred (100) feet, measured in any direction, of a dwelling district. The measurement shall be taken from the exterior of the container to the zoning boundary of the dwelling district except when such container is separated from such dwelling district by an intervening street (see section 732-217, Diagram J).

i. Recycling containers are prohibited as accessory structures on lots of less than ten thousand (10,000) square feet in area. Recycling containers shall be permitted as accessory uses on lots of ten thousand (10,000) square feet in area or greater provided that the combined total square footage utilized for recycling containers on the lot does not exceed one-half (1/2) of one (1) percent of the total gross square footage of the lot.

j. An Improvement Location Permit shall be obtained prior to the placement of the recycling container on the commercial lot.

(e) *Requirements for temporary use structures or buildings:* Temporary use structures shall be permitted in all commercial districts, under a temporary Improvement Location Permit issued by the Administrator subject to the temporary use requirements specified below:

(1) Temporary use structures or buildings shall comply with all setback requirements for a primary building on the site.

(2) Any floodlights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.

(3) A temporary Improvement Location Permit for a temporary use structure shall be valid for a maximum of eighteen (18) months. An extension of time, not to exceed one hundred eighty (180) days, may be granted by the Administrator for good cause shown. Such request for extension must be filed with the Administrator prior to the termination date of the temporary Improvement Location Permit.

(4) All structures, buildings, appurtenances, trash or debris associated with the temporary use structure shall be removed from the site immediately upon completion or cessation of the temporary use.

(f) *Requirements for temporary seasonal retail sales uses:*

(1) The use or structure must comply with all setback requirements for a primary building on the site.

(2) A minimum of three (3) off-street parking spaces shall be provided on-site for the temporary seasonal retail sales use. The location of the temporary seasonal retail sales uses and its required minimum reservation of off-street parking spaces shall not utilize any required off-street parking spaces for the primary/permanent use of the site.

(3) The location of the temporary seasonal retail sales use, and any structure associated with such use, shall be completely within a striped, off-street parking space(s) for the primary/permanent use on the site and shall not be located within a drive or maneuvering area for that primary/permanent use.

(4) Final site plans, showing the location of the temporary seasonal retail sales use within the site, shall be subject to Administrator's review and approval prior to the issuance of an Improvement Location Permit.

(5) Signs for the temporary seasonal retail sales shall comply with the regulations regarding wall signs within integrated centers contained in Chapter 734 of this Code.

(g) *Landscaping, screening, and grounds maintenance:* Subject to the allowed uses in required yards, landscaping, screening and grounds maintenance shall be provided and maintained, for all development in all commercial districts in accordance with the following regulations:

(1) *Landscaping and screening in required yards.*

a. All required yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation such as trees and shrubs as specified in section 732-214(g)(1)b. and c. and grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed twenty (20) percent of the area of the required yard in which it is used.

b. Landscaping and screening of the required front yard shall be provided and maintained according to the following minimum standards:

1. Landscaping in the required front yard shall consist of trees planted in accordance with one (1) of the two (2) following alternatives:

i. If deciduous shade (overstory) trees are used:

There shall be one (1) tree planted at a maximum of every forty (40) feet on center of linear distance along all required front yards.

These required trees may be grouped together in the required front yard, however, in no case shall spacing between the trees exceed eighty (80) feet (refer to section 732-217, Diagram F); or

ii. If deciduous ornamental (understory) trees are used:

There shall be one (1) tree planted at a maximum of every twenty-five (25) feet on center of linear distance along the required front yard.

These required trees may be grouped together in the required front yard, however, in no case shall spacing between the trees exceed fifty (50) feet (refer to section 732-217, Diagram F).

Deciduous shade trees and deciduous ornamental trees may be grouped together in the required yards, however, in no case shall spacing between a deciduous shade tree and a deciduous ornamental tree exceed fifty (50) feet.

2. Screening in the required front yard of the project may include:

i. Wall or fence - an ornamental, decorative fence or masonry wall, not more than forty-two (42) inches in height if solid, or six (6) feet if the sight barrier is less than fifty (50) percent, may be used in conjunction with the required landscaping; or

ii. Berm - an earthen berm may be used in conjunction with the required landscaping. It shall be a maximum height of forty-two (42) inches, have a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation (a retaining wall may be used on one (1) side of the berm in lieu of a side slope, if desired); or

iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs may be used in conjunction with the required landscaping.

Provided, however, for all parking areas between the building line, as extended, and the street, there shall be provided and maintained along the front line of the parking area a screen of a minimum height of thirty-six (36) inches along a minimum of seventy-five (75) percent of the linear distance of the parking area (excluding the linear width of driveways) with a solid wall, solid fence, berm, or plant material screen. In addition, no linear open space between the above noted screening techniques shall be greater than thirty (30) feet.

The ground area between such wall, fence, berm, or plant material screen and the front proposed right-of-way line shall be planted and maintained in grass or other suitable ground cover.

A minimum of half of the required trees shall also be planted between the proposed right-of-way and the wall, fence, berm, or plant material screen.

c. Landscaping and screening in the required side and rear yards shall be provided and maintained according to the following minimum standards:

1. Landscaping in the required side and rear yards shall consist of trees planted in accordance with one (1) of the two (2) following alternatives:

i. If deciduous shade (overstory) trees are used:

There shall be one (1) tree planted at a maximum of every sixty (60) feet on center of linear distance along all required side and rear yards.

These required trees may be grouped together in the required side and rear yards, however, in no case shall spacing between the trees exceed eighty (80) feet (refer to section 732-217, Diagram F); or

ii. If deciduous ornamental (understory) trees are used:

There shall be one (1) tree planted at a maximum of every forty (40) feet on center of linear distance along all required side and rear yards.

These required trees may be grouped together in the required side and rear yards, however, in no case shall spacing between the trees exceed fifty (50) feet (refer to section 732-217, Diagram F).

Deciduous shade trees and deciduous ornamental trees may be grouped together in the required yards, however, in no case shall spacing between a deciduous shade tree and a deciduous ornamental tree exceed fifty (50) feet.

2. Screening in the required side and rear yard of the project may include:

i. Wall or fence - an ornamental, decorative fence or masonry wall up to a maximum height of ten (10) feet may be used in conjunction with the required landscaping; or

ii. Berm - an earthen berm may be used in conjunction with the required landscaping. It shall have a maximum height of ten (10) feet, have a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation; or

iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs may be used in conjunction with the required landscaping.

d. All landscape plantings, architectural screens (fences, walls), shrubs, trees, structures or other objects shall permit completely unobstructed vision within a clear sight triangular area as noted in section 732-214(c).

e. No architectural screen fronting upon or abutting a protected district shall be electrified with the intent of providing for an electrical shock if touched.

f. Barbed wire, razor wire and similar type wires shall not be permitted within the front yard setback, or in front of any existing building in the C-1, C-2, C-3, C-3C, C-4, C-5, or C-6 commercial districts.

g. The minimum size of all required landscape plant materials, at the time of planting, including substituting or replacement trees and shrubs, shall be as follows:

1. Deciduous shade (overstory) trees - two-and-one-half-inch caliper at six (6) inches above the ground.

2. Deciduous ornamental (understory) trees - one-and-one-half-inch caliper at six (6) inches above the ground.

3. Multi-stemmed trees - eight (8) feet in height.

4. Evergreen trees - five (5) to six (6) feet in height.

5. Deciduous or evergreen shrubs - twenty-four (24) inches in height. Shrubs are to be planted at a maximum of four (4) feet on center of linear distance along the required yard.

   Except, however, shrubs used to screen parking in front of the building façade of an automotive dealership (new, used, or rental) shall be eighteen (18) inches in height.

h. All trees and shrubs shall be planted or transplanted in accordance with the standards contained in American Standards for Nursery Stock, copyrighted in 1986 by the American Association of Nurserymen and approved May 2, 1986, by the American National Standards Institute, Inc. (a copy of which is on file in the office of the division of ~~neighborhood and development services~~ planning and is hereby incorporated by reference and made a part hereof). All trees and shrubs shall be mulched and maintained to give a clean and weed-free appearance.

i. In computing the number of trees to be planted in a required yard or a required transitional yard, a fraction of one-half (1/2) or greater shall be rounded up to count as an additional tree.

j. Existing trees may fulfill the requirements for tree planting in required yards or required transitional yards as long as the standards specified for required yards (section 732-214(g)(2)b. or c.) or required transitional yards (section 732-214(g)(3)b. or c.) are met.

k. The removal from any minimum required yard or any minimum required transitional yard of any existing live deciduous tree over four-inch caliper measured at four and one-half (41/2) feet above ground or of any existing shrub or evergreen tree over six (6) feet in height shall be prohibited except to facilitate the placement of utilities or to provide for necessary easements or drainage improvements. Removal of such tree(s) shall require the replanting of replacement tree(s) so that the total number of trees replanted equals the total number of trees removed. Replacement trees shall be of the same species as those trees removed unless approved otherwise by the Administrator. Replanting of these replacement trees shall occur within six (6) months of removal, or the next planting season, whichever occurs first.

l. All existing trees which are to be preserved shall be maintained without injury and with sufficient area for the root system to sustain the tree. Protective care and physical restraint barriers at the dripline, such as temporary protective fencing, shall be provided to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction. Heavy equipment traffic and the storage of construction equipment or materials shall not occur within the dripline of the tree.

(2) *Landscaping and screening of required transitional yards:* Landscaping and screening of yards fronting upon or abutting a protected district shall be provided and maintained, for all development in all commercial districts in accordance with the following regulations in addition to section 732-214(g)(1)d. through k.

a. All required transitional yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation such as trees, shrubs, hedges, and grasses or ground cover as specified in section 732-214(g)(2)b. and c., planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed twenty (20) percent of the area of the required yard in which it is used.

b. Landscaping and screening of required front transitional yards shall be provided and maintained according to the following minimum standards:

   1. Landscaping in front transitional yards shall consist of trees planted in accordance with the standards specified for required front yards. See section 732-214(g)(1)b.1.

   2. Screening in front transitional yards shall be provided in an open pattern to partially screen the commercial use.

Provided, however, for any parking areas between the building line, as extended, and the street, there shall be provided and maintained along the front line of the parking area a buffer screen of a minimum of one (1) of the following:

i. Architectural screen - a wall or fence of ornamental block, brick, solid wood fencing or combination thereof. Such wall or fence shall be a maximum of forty-two (42) inches and a minimum of thirty-six (36) inches in height and shall be so constructed to such minimum height to restrict any view therethrough: or

ii. Berm - an earthen berm shall be a maximum height of forty-two (42) inches and a minimum height of thirty-six (36) inches, a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation (a retaining wall may be used on one (1) side of the berm in lieu of a side slope, if desired).

Exception: The earthen berm may be combined with shrubs to attain the minimum height of thirty-six (36) inches.

iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs. Such shrubs shall attain a minimum height of thirty-six (36) inches at maturity; and

The ground area between such wall, fence, berm, or hedge and the front right-of-way line shall be planted and maintained in grass or other suitable ground cover. A minimum of half of the required trees shall also be planted between the proposed right-of-way and the wall, fence, berm, or hedge.

c. Required side and rear transitional yards shall be landscaped and have an effective screening of the commercial use.

1. Landscaping and screening required side and rear transitional yards using a solid wall or fence shall be provided and maintained according to the following minimum standards:

i. Landscaping standards for required side or rear transitional yards using a solid wall or fence.

Trees shall be planted along all side and rear transitional yards according to the standards specified for tree planting in front required yards. See section 732-214(g)(2)b.1.

ii. Screening standards for required side and rear transitional yards using a solid wall or fence:

(a) The finished side of the fence shall face the protected district. Such fence or wall shall be constructed to a height of not less than six (6) feet and no more than ten (10) feet.

(b) A berm may be used in place of a solid fence or wall so long as the berm is a minimum of six (6) feet in height to a maximum of ten (10) feet, has a minimum crown width of two (2) feet, a side slope no greater than three to one (3:1), and shall be planted and covered in live vegetation.

Exception: The earthen berm may be combined with shrubs to attain the minimum height of six (6) feet.

2. Landscaping and screening in the required side and rear transitional yards, if a solid wall or solid fence is not used, shall be provided and maintained according to one (1) of the following minimum standards:

i. A combination of trees and shrubs:

(a) Trees - trees shall be planted in accordance with the standards specified for required front yards (see section 732-214(g)(2)b.); and

(b) Shrubs - shrubs shall be planted so that one hundred (100) percent of the linear distance of the required transitional yard is screened. Shrubs shall be planted at a maximum of four (4) feet on center of linear distance along the required transitional yard. The shrubs shall have a minimum ultimate height of six (6) feet and shall be either evergreen or densely twigged deciduous shrubs: or

ii. Low branching and densely twigged deciduous ornamental trees shall be planted to maintain a spacing of twelve and one-half (121/2) feet on center; or

iii. Densely branched evergreen trees shall be planted to maintain a spacing of twelve and one-half (121/2) feet on center; or

iv. A combination of i., ii., or iii. to be maintained so that one hundred (100) percent of the linear distance shall be screened.

Exception: Existing trees and shrubs may be used to screen commercial uses. However, required transitional yards must be supplemented where sparsely vegetated to maintain a dense visual barrier to a height of six (6) feet.

3. Landscaping and screening in the required side and rear transitional yards may be achieved by combining elements from 1. and 2. of this subsection, so long as the minimum standards set forth for that element utilized is satisfied.

(3) *Additional landscaping requirements - interior of parking lots:* The purpose of interior landscaping is to help reduce glare and heat buildup; to promote interior islands for pedestrian safety and traffic separation; to visually break up large expanses of pavement; and to reduce surface runoff. The interior of any parking lot shall be landscaped based on the following minimum standards:

Total Number of Parking Spaces	*Required Interior Landscaped Area*
Less than 100 spaces required	None required
100 or more spaces required	Minimum 15 square feet per parking space

a. The minimum size of a required interior landscaping area shall be one hundred eight (108) square feet. No planting area shall be less than six (6) feet in dimension, measured from the inside of the permanent barrier to inside of permanent barrier, except those portions created by turning radii or angles or parking spaces (refer to section 732-217, Diagram G).

b. Required interior landscaped areas shall be in-ground and not placed upon a pavement surface.

c. A permanent barrier, such as curbing or wheel stops, shall enclose each interior landscaped area so as to minimize damage from vehicles, pedestrians and improve parking lot maintenance.

d. For each twenty (20) parking spaces or fraction thereof, one (1) tree shall be provided. Trees located at the end of a parking bay shall be deciduous shade (overstory) or deciduous ornamental (understory). Trees located in any other portion of the interior landscaped area may be deciduous shade (overstory), deciduous ornamental (understory) or evergreen. The minimum size for trees shall be:

- Two-and-one-half-inch caliper at six (6) inches above the ground at time of planting (deciduous shade (overstory)).

- One-and-one-half-inch caliper at six (6) inches above the ground at the time of planting (deciduous ornamental (understory)).

- Five (5) to six (6) feet in height at the time of planting (evergreen trees).

e. Each tree shall be a minimum of two and one-half (21/2) feet away from the outside of any permanent barrier of a landscaped area or edge of the parking area.

f. Hardy ground cover or grasses shall be planted to cover each interior landscaped area completely within three (3) years. All ground cover shall have a mature height of not more than two and one-half (21/2) feet.

g. Space devoted to required interior landscaped areas shall be in addition to any required front, side or rear yard or required front, side or rear transitional yard.

h. Fifty (50) percent of the required interior landscaped areas shall be installed at the end of parking bays (refer to section 732-217, Diagram G). The balance of the required interior landscaped area may be installed anywhere on the lot outside of the required front, side or rear yard or required front, side or rear transitional yard.

Exceptions to interior parking lot landscaping:

a. The requirements of this subsection shall not apply to parking garages or parking decks.

b. The requirements of this subsection shall not apply to the parking lots of commercial developments, legally established prior to August 2, 1993 ~~the adoption of Ordinance 92-AO-4,~~ unless there is additional square footage added to the development that is equal to or in excess of fifteen (15) percent of the development, in which case the additional parking that would be required shall meet the requirements of this section for the additional square footage, but the existing parking would not be subject to these landscaping requirements.

(4) *Landscape plan requirements:* A landscape plan shall:

a. Be drawn on a copy of the site plan (or a simplified scale drawing thereof) and show exact locations and outline of all rights-of-way (both existing and proposed by the Official Thoroughfare Plan for Marion County), structures, buildings, sidewalks and pedestrian ways, streets, trash enclosures, project access and interior access drives and driveways, individual and project storage, permanent lighting fixtures, signs, benches, screens, walls, fences, natural vegetation areas, open space, recreational areas, transitional yards, adjacent property zones, and all underground and overhead lines within areas to be landscaped (with depths or heights indicated at intervals where lines change direction or where terminals or connections are provided);

b. Show dimensioned detailed elevation or section drawings of walls and fences;

c. Show all existing elevations and proposed land contour lines having at least two-foot intervals;

d. Show location and nature of existing and proposed drainage systems and their flow;

e. Include a tree survey of required yards or required transitional yards indicating the exact location of existing trees over four-inch caliper at four and one-half (41/2) feet above the ground and all flowering trees, shrubs and evergreens over six (6) feet in height.

f. Include the exact location of any existing tree two-and-one-half-inch caliper or greater at four and one-half (41/2) feet above the ground which will be counted as a required tree. Such trees, shrubs and evergreens shall be accurately labeled in the tree survey with species and caliper size indicated as either existing to remain or existing to be removed or transplanted.

g. Show all proposed planting by labeling the species, size, and spacing (on center).

(5) *Grounds maintenance:* The project owner or management shall:

a. Maintain the landscaping by keeping lawns mowed, all plants maintained as disease-free, and planting beds groomed, except in naturally occurring vegetation areas, such as thickets; and

b. Replace any required planting(s), which are removed or die after the date of planting per the previously approved plans on file. Such replacement shall occur during the next planting season.

(6) *Administrator approval of alternate plans:* The Administrator, upon request by the applicant, shall have the power to modify any 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. Such modification shall be noted on the alternative landscape plan, stamped approved by the Administrator and become a part of the file and requirements for the Improvement Location Permit.

(h) *Appeal.* In all sections of this chapter 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 bring such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval.

(i) *Application of section 732-214.* This section shall be applicable to all commercial districts.

SECTION 14. Section 732-217 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 732-217. 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.* The words in the text or illustrations of this chapter 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.

Access. The way by which vehicles shall have ingress to and egress from a land parcel or property and the street fronting along such property or parcel.

Access drive. That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property (see Diagram A).

Accessory. A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.

Administrator. Administrator of the division of ~~neighborhood and development services~~ planning of the department of metropolitan development or his/her appointed representative.

Adult bookstore. An establishment having as a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult cabaret. A nightclub, bar, theatre, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

Adult drive-in theatre. An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

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.

Adult live entertainment arcade. Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyrational choreography, which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure to specified anatomical areas.

Adult mini motion picture theatre. An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, notion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motel. A hotel, motel or similar establishment offering public accommodations for any form of consideration which provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult motion picture arcade. Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theatre. An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult service establishment. Any building, premises, structure or other facility, or part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.

Alley. Any 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(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from such lot(s).

Alteration. Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

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.

Amusement/recreational establishment, commercial. See (indoor/outdoor) commercial amusement/ recreational establishment.

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.

Attached multifamily dwelling. See dwelling, attached multifamily.

Automated teller machine (ATM). A mechanized apparatus which performs limited banking functions for customers such as deposits, withdrawals and transfers of funds upon insertion of a customer identification card, password, or similar device.

Awning. A roof-like cover, often of fabric, metal, plastic, fiberglass or glass, designed and intended for protection from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or the like.

Basement. That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half or more of its interior vertical height clearance below grade level.

Bed and breakfast. The commercial leasing of no more than four (4) bedrooms(s) for no more than eight (8) guest(s) within a private dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee.

Boarding house. A building, other than hotels, motels, bed and breakfasts or multifamily dwelling, containing accommodation facilities in common for up to ten (10) persons where lodging, typically with meals, reserved solely for the occupants thereof, is provided for a fee.

Buildable area. The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met (see Diagram B).

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 area. The total ground area, within the lot or project, covered by the primary structure plus garages, carports and other accessory buildings. The ground area of a structure, or portion thereof, not provided with surrounding exterior walls shall be the area immediately under the vertical projection of the roof or the floor above (see Diagram B).

Canopy. A roof-like cover, often of fabric, metal, plastic, fiberglass, or glass on a support, which is supported in total or in part from the ground, providing shelter over, for example, a doorway, outside walk or parking area.

Collector street. See street, collector.

Commercial garage. See garage, commercial.

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.

Community center. A building used for recreational, social, educational and cultural activities of a neighborhood or community.

Comprehensive plan. The Comprehensive Plan for Marion County, Indiana, or segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4.

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.

Convenience market. A retail establishment selling a limited number of food items, such as sandwiches, snacks, staple groceries, household items, lottery tickets and food items prepared on the premises, including reheating, which can be immediately consumed. Such establishments may also provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers of the establishment on a self-service basis.

Corner lot. See lot, corner.

Covenant. A legal agreement concerning the use of land.

Crown of the street. The highest point, most often at the center line, of a street cross-section of the street pavement between the existing curb lines.

Cul-de-sac. See street, cul-de-sac.

Curb cut. The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street (see Diagram A).

Curb line. A line located on either edge of the pavement, but within the right-of-way line (see Diagram A).

Customer service window. Opening on the exterior of a building through which customers receive goods or services in exchange for monetary compensation.

Dance studio. An establishment primarily engaged in operating and providing training, instruction, and demonstrations or recitals in various forms of dance to individuals or groups.

Day care center. Any institution or place operated for the purpose of providing:

(1) Care;

(2) Maintenance; or

(3) Supervision and instruction;

to children who are less than six (6) years old and are separated from their parent(s), guardian, or custodian for more than four (4) hours but less than twenty-four (24) hours a day for ten (10) or more consecutive workdays, where tuition, fees or other forms of compensation are charged, and which is licensed by, and approved to operate as a day care center in accordance with the requirements of the State of Indiana. This definition shall not include a "day care home" of children.

Day care home. Defined in IC 12-3-2-3 as follows: A residential structure where an individual provides child care:

(1) For compensation;

(2) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding holidays; and

(3) To more than five (5) children at a time who:

a. Are less than eleven (11) years of age; and

b. Are not attended by:

1. A parent;

2. A stepparent;

3. A guardian;

4. A custodian; or

5. A relative who is at least eighteen (18) years of age.

Day nursery. Same as day care center.

Display, outdoor. An outdoor area where merchandise is displayed for sale, and which is freely accessible to the public except that automobile retail sales areas shall be considered outdoor display areas whether freely accessible or not. Outdoor display may be the principal use of a lot or may be accessory to a commercial use (as allowed by the zoning district) when the sales transactions occur within a structure.

Dripline. The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.

Drive-in. A business establishment so developed that its retail or service character is dependant on providing a driveway approach or parking spaces for motor vehicles to service patrons while in or on the motor vehicle, rather than within a building.

Drive-through. A feature of an establishment which encourages or permits customers to receive services or obtain goods while remaining in or on a motor vehicle.

Drive-through customer window. See customer service window.

Drive-through restaurant. See restaurant, drive-through.

Driveway. Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line (see Diagram A).

Dry cleaning plant. A facility in which the cleaning of garments, fabrics, draperies, etc., is performed with a liquid other than water. The plant is generally not visited by individual customers, but rather by individual dry cleaning dropoff establishments.

Dwelling, attached multifamily. 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).

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.

Educational services. An establishment providing academic or technical instruction or primarily engaged in offering educational courses and services, including libraries, student exchange programs and curriculum development.

Enlargement (pertaining to adult entertainment only). An increase in the size of the building, structure or premises in which the adult entertainment business is conducted by either construction or use of an adjacent building or any portion thereof whether located on the same or an adjacent lot or parcel of land.

Erect. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

Establishing an adult entertainment business. Shall mean and include any of the following:

(1) The opening or commencement of any such business as a new business;

(2) The conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein;

(3) The relocation of any such business.

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

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.

Fast food restaurant. See restaurant, fast food.

Floor area, gross. 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 center line of walls separating two (2) abutting buildings.

Front lot line. See lot line, front.

Front yard. See yard, front.

Frontage (street frontage). The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.

Garage, commercial. Any building designed and intended for the storage or repair of motor vehicles for compensation.

Gasoline service station. Any building, land area or other premises or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; which may include as an accessory use minor automotive repairs; the sale and installation of lubricants, tires, batteries; car washes; and similar accessory uses. Such establishments shall provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers or employees.

Grade, established street. The crown elevation of a street pavement level abutting a property (as fixed by the Department of ~~Transportation~~ Public Works).

Grade level (adjacent ground elevation). The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from such walls, between such walls and a line ten (10) feet away from and paralleling such walls.

Grocery store. A commercial establishment, commonly known as a supermarket, food or grocery 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.

Gross floor area. See floor area, gross.

Gross floor area, total. The sum of the gross horizontal areas of all floors below the roof and within the exterior faces of the exterior walls of principal and accessory buildings or the center lines of walls separating two (2) abutting buildings.

Gross leasable area. The total floor area which is designed for the tenant's occupancy and exclusive use.

Ground cover. Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, and the like.

Ground floor. That story which contains finished floor area closest to, but not below, grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.

Handicap ramp. See pedestrian ramp.

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

Hardware store. A commercial establishment primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, and cutlery.

Health care facility. A facility or institution, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition.

Health services. Medical, surgical or other similar services provided to individuals, including services provided by physicians, dentists, and other health practitioners, medical and dental laboratories, outpatient care facilities or blood banks.

Hedge. A row or rows of closely planted shrubs, bushes, etc., creating a vegetative barrier.

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 such 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 such sidewalk or ground surface is more than ten (10) feet above the lowest grade.

Home improvement store/center. A facility for the sale of home, lawn, and garden materials and supplies, brick, lumber, hardware items and other similar materials.

Hotel. Any building or group of buildings containing five (5) or more rooms without direct access to the outside, designed or intended to be occupied for sleeping purposes by guests for a fee, often with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the travelling public.

Indoor commercial amusement/recreation establishment. 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, or arcades.

Inoperable vehicle. A motor vehicle from which there has been removed the engine, transmission or differential or that is otherwise partially dismantled or mechanically inoperable, or any motor vehicle which cannot be driven on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

Integrated center. An area of development (commercial, industrial or any combination of commercial, industrial and residential uses) of one (1) or more lots, comprised of:

(1) A number of individual, nonrelated and separately operated uses in one (1) building sharing common site facilities; or

(2) One (1) or more buildings containing nonrelated and separately operated uses occupying a common site, which utilize one (1) or a combination of common site facilities, such as driveway entrances, parking areas, driving lanes, signs, maintenance and similar common services; or

(3) One (1) or more buildings containing unrelated and separately operated uses occupying individual sites, which are interrelated by the utilization of one (1) or a combination of common facilities, such as driveway entrances, public or private street network, parking areas, maintenance and other services.

Interior access drive. A minor, private street providing access within the boundaries of a project beginning at the required setback line (see Diagram A).

Interior access driveway. Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels (see Diagram A).

Job printer. A facility for the commercial reproduction, cutting, printing, or binding of written materials, drawings, or labels on a bulk basis using lithography, offset printing, blueprinting and similar methods.

Landscaping. Any combination of living plants, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion and drainage control and wind protection.

Landscaping, interior. Landscaping areas consisting of a combination of trees, shrubs and ground cover located in the interior of vehicular use areas so as to provide visual and climatic relief from broad expanses of pavement and to channelize and define areas for pedestrians and vehicular circulation.

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 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.

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.

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

Loading area. An off-street area maintained and intended for the maneuvering and temporary parking of vehicles while transferring goods or materials to and from a facility.

Loading space. An off-street space or berth used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

Local street. See street, local.

Lot. A tract of land designated by its owner(s) to be used or developed as a unit under single ownership or control. A lot may or may not coincide with a lot of record and may consist of:

(1) A single lot of record;

(2) A portion of a lot of record; or

(3) A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

For purposes of this definition, ownership includes:

(1) The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;

(2) A contract vendee;

(3) A long-term lessee (but only if the lease is recorded among the records of the county recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit) (see Diagram C).

Lot area. The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street, alley, or easement for surface access (ingress or egress) into the subject lot or adjoining lots.

Lot, corner. A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees (see Diagram C).

Lot, through. A lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot (see Diagram C).

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 of the primary structure shall be considered the front lot line, or so declared by the Administrator (see Diagram B).

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 line, 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.

Lot of record. A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the office of the recorder of Marion County, Indiana.

Main floor area. The area of a horizontal plane, fully bound by the exterior walls of the primary building or structure, of the floor surface at or above grade level exclusive of vent shafts, decks, garages, uncovered or covered open space.

Marginal access street. See street, marginal access.

Mini-warehouses. A building or group of buildings containing one (1) or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds six hundred (600) square feet in area.

Minor emergency repairs. Those maintenance repairs necessitating an immediate solution yet not posing an immediate life-safety hazard, nor altering the existing character of the structure (see alteration).

Motel. Any building or group of buildings containing five (5) or more rooms with at least twenty-five (25) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building(s), designed or intended to be occupied for sleeping purposes by guests for a fee, where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the traveling public.

Mulch. A protective covering of organic substances placed around plants to control weeds and prevent evaporation of moisture or freezing. Plastic, loose gravel, stones or rocks shall not be considered as mulch.

Neighborhood recycling collection point. A site where individuals bring household recycling materials to either drop off without compensation, or to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the material takes place at the site. All materials are stored completely within the structure while awaiting periodic shipment to the processing facilities. While these collection points may be developed as freestanding sites, they typically are accessory uses

sharing the site of a larger primary use. Possible structures for this type of operation include such recycling containers as "igloos," reverse vending machines, trailers, or similar structures.

Night club. An establishment engaged primarily in offering entertainment to the general public, in the form of music for dancing or live and 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 chapter, 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.

Nonconforming adult entertainment business. Shall mean any building, structure or land lawfully occupied by an adult entertainment business or lawfully situated at the time of passage of General Ordinance ~~85-AO-4~~ 44, 1984, adopted on July 9, 1984, or amendments thereto, which does not conform after the passage of that ordinance or amendments thereto with the regulations of this chapter.

Nursery, day. See day care center.

Off-street. A location completely within the boundaries of the lot, and completely off of public or private rights-of-way or alleys or any interior surface access easement for ingress and egress.

On-center. Distance at grade from the center of one (1) plant to the center of the next plant.

Outdoor commercial amusement/recreation establishment. An open area offering entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as golf courses, swimming pools, and baseball/softball fields.

Outdoor display. See display, outdoor.

Outdoor storage. See storage, outdoor.

Parking area. An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space (see Diagram A).

Parking bay. The parking module consisting of one (1) or two (2) rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces (see Diagram A).

Parking space. An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle (see Diagram A).

Pavement. A layer of concrete, asphalt or coated macadam used on street, parking area, sidewalk, or airport surfacing.

Pedestrian ramp. An inclined access opening along the curb line at which point pedestrians, unassisted or assisted by a wheelchair, walker or the like, may enter or leave the street; or an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or the like, access from the ground to an elevated surface.

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

Personal service. Services provided involving the care of a person or his/her apparel.

Personal service establishment. A commercial establishment primarily engaged in providing services generally to individuals involving the care of a person or his/her apparel, such as laundries, photographic portrait studios, barber and beauty shops, shoe repair, tailor, travel bureaus or similar facilities.

Physically handicapped. An individual who has a physical impairment including impaired sensory, manual or speaking abilities, which results in a functional limitation in access to and use of a building or facility.

Plat. An officially recorded map, as recorded in the office of the Marion County Recorder, or a map to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

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

Printer, job. See job printer.

Proposed right-of-way. See right-of-way, proposed.

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 the 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.

Rear yard. See yard, rear.

Reconstruction (pertaining to adult entertainment only). The rebuilding or restoration of any nonconforming adult entertainment business which was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion or other calamity or act of God, if the damage or destruction exceeds two-thirds (2/3) of the value of the structure or the facilities affected.

Recreation facility. A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.

Recycling container. Receptacle designed and intended for the collection of cleaned, sorted, solid household waste products, including, but not limited to, glass, plastic, metal and paper.

Recycling station. A recycling operation involving further processing (relative to a neighborhood recycling collection point) of materials to improve the efficiency of subsequent hauling. Such a facility typically features sorting, the use of a crushing apparatus, and the storage of the material until it is shipped out. These businesses usually occupy existing freestanding sites, such as former gasoline stations, or occupy parts of an integrated center parking lot.

Religious use. A land use devoted primarily to 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.

Restaurant, drive-in or drive-through. Any restaurant designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by, patrons in or on motor vehicles parking or stopped on the premises.

Restaurant, family. An establishment where food and drink are prepared, served and consumed primarily within the principal building to the general public. The establishment may have a separate area, or lounge, where alcoholic beverages are served without full food service, provided the area is accessory to the primary use in: 1) square feet; or 2) sales.

Restaurant, fast food. An establishment whose principal business is the sale of preprepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on-premises or off-premises.

Resumption (pertaining to adult entertainment only). Shall mean the reuse or reoccupation of a nonconforming adult entertainment business which has been discontinued for a period of six (6) or more consecutive months.

Retail trade. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. The establishment typically buys goods for resale to the public.

Required yard. See yard, required.

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.

Right-of-way, private. Specific and particularly described strip of privately held land, property, or interest therein devoted to and subject to use for general transportation purposes or conveyance of

utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the office of the Marion County Recorder.

Right-of-way, proposed. Specific and particularly described land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially described in the Marion County Thoroughfare Plan as adopted and amended by the Metropolitan Development Commission.

Right-of-way, public. Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the office of the Marion County Recorder.

Roof line. The uppermost edge of the water-carrying surface of a building or structure.

Satellite dish antenna. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone or horn. Such device shall be used to transmit or receive radio or electromagnetic waves between terrestrially or orbitally based devices.

Screening. A method of visually shielding or obscuring a nearby structure, building or use on an abutting or adjacent property or lot from another by fencing, walls, berms, or densely planted vegetation.

Seasonal retail sales use, temporary. A temporary use established for a fixed period of time, for the retail sale of seasonal products, including, but not limited to, such items as food, Christmas trees, and live plants. This use may or may not involve the construction or alteration of any permanent building or structure.

Semi-public use. See use, semi-public.

Service bay. Individual area within an automobile repair or service facility where services, including but not limited to car washes, oil changes and repairs, are performed on a motor vehicle.

Services involving specified sexual activity or display of specified anatomical areas. Any combination of two (2) or more of the following activities:

(1) The sale or display of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representation which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;

(2) The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;

(3) The operation of coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices per machine at any one (1) time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas;

(4) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas;

(5) The operation of a massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio, as these terms are defined in Chapter 911 of this Code.

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

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 (see Diagram B).

Shopping center. A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access and often with protection from the elements.

Shrub. A woody plant of relatively low height (not exceeding ten (10) to twelve (12) feet in height), branching from the base.

Side yard. See yard, side.

Sidewalk. A hardsurfaced walk or raised path along and often paralleling the side of the street intended for pedestrian traffic.

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.

Site plan. The development 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 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, center lines of rights-of-way, and dimensions.

Specified anatomical areas. Any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

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

Specified sexual activities. Any of the following:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy;

(3) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts;

(4) Flagellation or torture in the context of a sexual relationship;

(5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;

(6) Erotic touching, fondling or other such contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation as a part of or in connection with any of the activities set forth in (1) through (6) above.

Stacking space, off-street. An area, separate from or in addition to, the required parking area, reserved for the temporary retention of vehicles which are queuing up or utilizing the services of a drive-through service unit.

Storage, outdoor. An outdoor area used for the long-term deposit (more than twenty-four (24) hours) of any goods, material, merchandise, vehicles or junk.

Storage area. An area designated, designed and intended for the purpose of reserving property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

Storage room. An enclosed area integrated into and sharing a common or party wall or walls within a primary building, while designed and intended for the purpose of reserving property for a future use.

Story. That part of a building, with an open height of not less than seven (7) feet six (6) inches, except a mezzanine, included between the upper surface of one (1) floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a story only if it provides finished floor area.

Street, collector. A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets and arterials while allowing direct access to abutting property(ies) (see Diagram D).

Street, cul-de-sac. A street having only one (1) open end which is permanently terminated by a vehicle turnaround (see Diagram D).

Street, expressway. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street, freeway. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street, local. A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies) (see Diagram D).

Street, marginal access. A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies) (see Diagram D).

Street, parkway. A street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and the thoroughfare plan.

Street, primary. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street, private. A privately held right-of-way, with the exception of alleys, essentially open to the sky and open for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and the like.

Street, public. A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and the like.

Street, secondary. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Structural alteration. Shall mean any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, IC 36-7-9-1, and any amendments thereto.

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.

Subdivision. The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development.

Substance abuse treatment facility. A facility, the primary function of which is to administer or dispense a schedule II controlled substance (as listed under IC 35-48-2-6(b) or (c)) to a narcotic addict for maintenance or detoxification treatment.

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.

Temporary seasonal retail sales use. See seasonal use, temporary.

Temporary use. An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Theatre, drive-in. An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in motor vehicles.

Theatre, motion picture. A building or part of a building which is devoted primarily to showing motion pictures to the public for a fee.

Theatre, legitimate. A building or structure or part thereof which is devoted primarily for the presentation of live dance, dramatic, musical or comedic performances.

Thoroughfare. A street primarily serving through vehicular traffic, including freeways, expressways, primary arterials, and secondary arterials.

Thoroughfare plan. 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.

Through lot. See lot, through.

Total gross floor area. See gross floor area, total.

Transitional yard. See yard, transitional.

Trash container. Receptacle intended for the disposal, collection or temporary storage of unsorted waste products or refuse.

Trash enclosure. An accessory structure enclosed on at least three (3) sides that is designed to screen and protect waste receptacles from view and to prevent waste debris from dispersing outside the enclosure.

Tree survey. An inventory of all trees on a lot or project before construction, alteration or excavation activity occurs identifying species, location, caliper, and dripline of trees. In the case of dense tree stands that exceed six hundred (600) square feet in area and seventy-five (75) percent branch coverage of the ground surface, the location of the outer boundary of the tree stands' dripline with a listing of the predominant species and caliper may be substituted for a detailed inventory.

Use, semi-public. A service offered by a not-for-profit organization to the general public for either no charge or a nominal fee.

Variety store. Commercial establishments primarily engaged in the retail sale of a variety of merchandise in the low price range. Sales usually are made on a cash-and-carry basis, with the open-selling method of display and customer selection of merchandise. These stores generally do not carry a complete line of merchandise, are not departmentalized, do not carry their own charge service, and generally do not deliver merchandise.

Vending machine. An automatic device which dispenses goods or services to the customer upon receipt of monetary compensation.

Walkway. A hardsurfaced walk or raised path for pedestrian traffic.

Yard, front. An open space unobstructed to the sky, extending 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 (see Diagram B).

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 (see Diagram B).

Yard, required. That portion of any yard abutting a lot line having a minimum depth as area required by the particular zoning district in which it is located.

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 (see Diagram B).

Yard, transitional required. That portion of any yard abutting a protected district having a minimum depth as required by the particular zoning district in which it is located and acting as a buffer between two (2) or more land uses of different intensity (see Diagram B).

SECTION 15. Sections 733-202 through 733-211 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 733-202. I-1-S Restricted Industrial Suburban District.

Statement of purpose: This district is designed for those industries which carry on their entire operation within a completely enclosed building in such a manner that no nuisance factor is created or emitted outside an enclosed building. No storage of raw materials, manufactured products, or any other materials is permitted in the nonscreened open space around the buildings. Loading and unloading berths are completely enclosed or shielded by a solid screening. This district has strict controls on the intensity of land use providing protection of each industry from the encroachment of other industries. It is usually located adjacent to protected districts and may serve as a buffer between heavier industrial districts and business or protected districts.

(a) *I-1-S development standards.*

(1) *Use.*

a. *Enclosed operations.* All operations, servicing or processing (except storage and off-street loading) shall be conducted within completely enclosed buildings.

b. *Outside storage.* All storage of materials or products shall be:

1. Within completely enclosed buildings; or

2. Effectively contained by a chain link, solid, lattice or similar type fence or wall, with ornamental, nonsolid, chain link or similar type entrance and exit gates. (Canvas may be attached to gates for effective screening.) The height of such fence or wall shall be at least six (6) feet and shall not exceed ten (10) feet. Such fence or wall shall be surrounded by trees or an evergreen hedge of a height not less than the height of such fence or wall, to be planted following the provisions for landscaping and screening of required transitional yards of section 733-211(e)(2). The storage of materials or products within the enclosure may not exceed the height of the fence.

c. *Outside storage area limitation.*

1. Total area of outside storage shall not exceed twenty-five (25) percent of the total gross floor area of enclosed structures and buildings.

2. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

i. 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

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard unless located within a parking area which is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on

the lot, even though the trash container is located within one hundred (100) feet of a protected district.

(2) *Required minimum.* Each lot or industrial park shall have at least seventy-five (75) feet of frontage on a street right-of-way and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 733-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* A side building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to additional transitional yard requirements of section 733-202(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-202(a)(6).

(5) *Required minimum rear yard, minimum rear setback.* A rear building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 733-202(a)(6) or (8). Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-202(a)(6).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 733-202(a)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than one hundred (100) feet, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 733-200(a)(3)b., c. or d. In the case where a proposed right-of-way does not exist or where the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than fifty (50) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line. Provided, however, additional front, side or rear setback distances for transitional yards, as specified in section 733-202(a)(8), shall be required to permit building heights exceeding twenty-two (22) feet to a maximum height of forty (40) feet (see section 733-213, Diagram A).

Exceptions:

1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e).

2. The transitional yard requirements of section 733-202(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. Required front yards may include:

1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking areas and associated maneuvering areas not exceeding ten (10) percent of the total area of the required front yard and subject to the off-street parking regulations of section 733-210.

3. Driveways, provided they are not located within twenty (20) feet of a lot line abutting a protected district.

b. Required side and rear yards may include:

1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210.

3. Driveways and interior access drives.

c. Required front, side or rear transitional yards:

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.

(8) *Maximum height of buildings and structures.* Forty (40) feet, subject to the exception noted in section 733-200(a)(5). Provided, however, along any required front, side or rear transitional yard, the maximum vertical height shall be:

a. Twenty-two (22) feet; or

b. Forty (40) feet if for each foot of height in excess of twenty-two (22) feet, to an absolute maximum height of forty (40) feet, one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear transitional yard setback line for each foot of building or structural height above twenty-two (22) feet (see section 733-213, Diagram A).

c. The height of signs and sign structures shall comply with Chapter 734 of this Code.

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

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.

(12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 733-211.

(b) *Performance standards.*

(1) *Noise, vibration, odor, glare, heat.* In no case shall production or operational noise, vibration, odor, glare, or intense heat be permitted to escape beyond the lot lines.

(2) *Smoke, particulate matter, noxious materials.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform 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, particulate matter, or noxious or toxic gases are hereby incorporated by reference and made a part hereof.

(3) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or material are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(4) *Discharge of waste matter and storm drainage.* No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such a manner as to endanger the public health, safety or welfare; or cause injury to property. Prior to improvement location permit issuance for any industrial use:

a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from:

1. Construction of public facilities - the Indiana Department of Environmental Management and the City of Indianapolis, Division of ~~Permits~~ Compliance; or

2. Private sewage disposal systems - the Indiana State Board of Health and the Health and Hospital Corporation of Marion County, Indiana;

b. Written approval of proposed connection to a public sewer shall be obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance; and

c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance.

Sec. 733-203. I-2-S Light Industrial Suburban District.

Statement of purpose. This district is designed for those industries that typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odor, etc.) which extend beyond the lot lines. Outdoor operations and storage are completely screened if adjacent to protected districts, and are limited throughout the district to a percentage of the total operation. Wherever possible, this district is located between a protected district and a heavier industrial area to serve as a buffer.

(a) *I-2-S development standards.*

(1) *Use.*

a. *Enclosed operations.* All operations, servicing or processing located within five hundred (500) feet of a protected district boundary (except storage and off-street loading) shall be conducted within completely enclosed buildings.

b. *Outside storage.* All storage of materials or products within five hundred (500) feet of protected district boundary shall be:

1. Within completely enclosed buildings, or

2. Effectively contained by a chain link, solid, lattice or similar type fence or wall, with ornamental, nonsolid, chain link or similar type entrance and exit gates. (Canvas may be attached to gates for effective screening.) The height of such fence or wall shall be at least six (6) feet and shall not exceed ten (10) feet. Such fence or wall shall be surrounded by trees or an evergreen hedge of a height not less than the height of such fence or wall, to be planted following the provisions for landscaping and screening of required transitional yards of section 733-211(e)(2). The storage of materials or products within the enclosure may not exceed the height of the fence.

c. *Outside operations and storage area limitation.*

1. In no case shall the total area of outside operations and storage exceed twenty-five (25) percent of the total gross floor area of enclosed structures and buildings.

2. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

i. 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

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard unless located within a parking area which is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

d. *Private or commercial mobile radio communications, radio or television antennas.* Towers or antennas shall be subject to the following regulations:

1. There shall be no height limitation, except conformity with all requirements and limitations of Chapter 735, Article I of this Code.

2. Any guy anchorages shall be set back at least thirty (30) feet from any lot line.

(2) *Required minimum street frontage.* Each lot or industrial park shall have at least seventy-five (75) feet of frontage on a street right-of-way and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 733-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setbacks.* A side building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-203(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-203(a)(6).

(5) *Required minimum rear yard, minimum rear setback.* A rear building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 733-203(a)(6) or (8). Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-203(a)(6).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 733-203(a)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than one hundred (100) feet, measured from and paralleling the proposed right-of-way line of the street, shall be provided, unless subject to the regulations of section 733-200(a)(3)b., c. or d. In the case where a proposed right-of-way does not exist or where the existing right-of-way line is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than fifty (50) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line. Provided, however, additional front, side or rear setback distances for transitional yards, as specified in section 733-203(a)(8), shall be required to permit building heights exceeding twenty-two (22) feet to a maximum height of fifty (50) feet (see section 733-213, Diagram A).

Exceptions:

1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e).

2. The transitional yards requirements of section 733-203(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property of abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. Required front yards may include:

1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking areas and associated maneuvering areas not exceeding ten (10) percent of the total area of the required front yard and subject to the off-street parking regulations of section 733-210.

3. Driveways, provided they are not located within twenty (20) feet of a lot line abutting a protected district.

b. Required side and rear yards may include:

1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210.

3. Driveways and interior access drives.

c. Required front, side or rear transitional yards:

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.

(8) *Maximum height of buildings and structures.* Fifty (50) feet, subject to the exceptions noted in section 733-200(a)(5). Provided, however, along any required front, side or rear transitional yard, the maximum vertical height shall be:

a. Twenty-two (22) feet; or

b. Fifty (50) feet if for each foot of height in excess of twenty-two (22) feet, to an absolute maximum height of fifty (50) feet, one (one) additional foot setback shall be provided beyond such adjacent required front, side or rear transitional yard setback line for each foot of building or structural height above twenty-two (22) feet (see section 733-213, Diagram A).

c. The height of signs and sign structures shall comply with Chapter 734 of this Code.

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

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.

(12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 733-211.

(b) *Performance standards.*

(1) *Smoke, particulate matter, noxious materials.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform 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, particulate matter, or noxious or toxic gases are hereby incorporated by reference and made part hereof.

(2) *Vibration.* No use shall cause earth vibrations or concussions beyond the lot lines, endangering the public health, safety or welfare, or causing injury to property.

(3) *Odor.* No use shall emit across the lot lines odorous matter in such quantities as to endanger the public health, safety or welfare, or cause injury to property.

(4) *Noise.* No use shall emit sound beyond the lot lines in such a manner or intensity as to endanger the public health, safety or welfare, or cause injury to property.

(5) *Glare and heat.* No use shall produce heat or glare of such intensity beyond the lot lines as to endanger the public health, safety or welfare, or cause injury to property.

(6) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or material are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(7) *Discharge of waste matter and storm drainage.* No use shall accumulate or discharge beyond lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such a manner as to endanger the public health, safety or welfare, or cause injury to property. Prior to improvement location permit issuance for any industrial use:

a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from:

1. Construction of public facilities - the Indiana Department of Environmental Management and the City of Indianapolis, Division of ~~Permits~~ Compliance; or

2. Private sewage disposal systems - the Indiana State Board of Health and the Health and Hospital Corporation of Marion County, Indiana;

b. Written approval of proposed connection to a public sewer shall be obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance; and

c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance.

Sec. 733-204. I-3-S Medium Industrial Suburban District.

Statement of purpose. This district is designed as an intermediate district for industries which are heavier in character than those permitted in the Light Industrial Suburban District but which are not of the heaviest industrial types. Because of the nature of these industries, that district is located away from protected districts and buffered by lighter industrial districts. Where this district abuts protected districts, setbacks are large and enclosure of activities and storage is required.

(a) *I-3-S development standards.*

(1) *Use.*

a. *Enclosed operations.* All operations, servicing or processing located within five hundred (500) feet of a protected district boundary (except storage and off-street loading) shall be conducted within completely enclosed buildings.

b. *Outside storage.* All storage of materials or products within five hundred (500) feet of a protected district boundary shall be:

1. Within completely enclosed buildings; or

2. Effectively contained by a chain link, solid, lattice or similar type fence or wall (with ornamental, nonsolid, chain link or similar type entrance and exit gates). (Canvas may be attached to gates for effective screening.) The height of such fence or wall shall be at least six (6) feet and shall not exceed ten (10) feet. Such fence or wall shall be surrounded by trees or an evergreen hedge of a height not less than the height of the fence or wall, to be planted following the provisions for landscaping and screening of required transitional yards of section 733-211(e)(2). The storage of materials or products within the enclosure may not exceed the height of the fence.

c. *Outside operations and storage area limitation.*

1. In no case shall the total area of outside operations and storage exceed fifty (50) percent of the total gross floor area of enclosed structures and buildings.

2. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

i. 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

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard unless located within a parking area which is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

d. *Private or commercial mobile radio communications, radio or television antennas.* Towers or antennas shall be subject to the following regulations:

1. There shall be no height limitation, except conformity with all requirements and limitations of Chapter 735, Article 1 of this Code.

2. Any guy anchorages shall be set back at least thirty (30) feet from any lot line.

e. *Motor truck terminals.* Motor truck terminals shall be subject to the following exception: The parking of trucks or trailers shall not be defined or construed as outside storage in computing permitted outside storage and operations within this district.

(2) *Required minimum street frontage.* Each lot or industrial park shall have at least seventy-five (75) feet of frontage on a street right-of-way and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 733-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setbacks.* A side building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-204(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-204(a) (6).

(5) *Required minimum rear yard, minimum rear setback.* A rear building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-204(a)(6) or (8).

Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-204(a)(6).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks - Yards fronting upon or abutting a protected district are subject to the requirements of section 733-204(a)(7) and (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than one hundred fifty (150) feet, measured from and paralleling the proposed right-of-way line of the street, shall be provided, unless subject to the regulations of section 733-200(a)(3)b., c. or e. In the case where a proposed right-of-way does not exist or where the existing right-of-way line is greater, the existing right-of-way line shall be used for the setback measurements.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than one hundred (100) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line. Provided, however, additional front, side or rear setback distances for transitional yards, as specified in section 733-204(a)(8), shall be required to permit building heights exceeding thirty-five (35) feet (see section 733-213, Diagram A).

Exceptions:

1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e);

2. The transitional yard requirements of section 733-204(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. Required front yards may include:

1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking areas not exceeding ten (10) percent of the total area of the required front yard and subject to the off-street parking regulations of section 733-210.

3. Driveways, provided they are not located within twenty (20) feet of a lot line abutting a district.

b. Required side and rear yards may include:

1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210;

3. Driveways and interior access drives.

c. Required front, side or rear transitional yards:

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.

(8) *Maximum height of buildings and structures.* Along any required front, side, or rear transitional yard, the maximum vertical height shall be:

a. Thirty-five (35) feet; or

b. For each foot of height in excess of thirty-five (35) feet, one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear transitional yard setback line for each foot of building or structural height above thirty-five (35) feet (see section 733-213, Diagram A).

Subsections a. and b. above are subject to the exceptions noted in section 733-200(a)(5).

c. The height of signs and sign structures shall comply with Chapter 734 of this Code.

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

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.

(12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance shall be in accordance with section 733-211.

(b) *Performance standards.*

(1) *Smoke, particulate matter, noxious materials.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform 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, particulate matter, or noxious or toxic gases are hereby incorporated by reference and made a part hereof.

(2) *Vibration.* No use shall cause earth vibrations or concussions beyond the lot lines, endangering the public health safety or welfare, or cause injury to property.

(3) *Odor.* No use shall emit across the lot lines odorous matter in such quantities as to endanger the public health, safety or welfare, or cause injury to property.

(4) *Noise.* No use shall emit sound beyond the lot lines in such a manner or intensity as to endanger the public health, safety or welfare, or cause injury to property.

(5) *Glare and heat.* No use shall produce heat or glare of such intensity beyond the lot lines as to endanger public health, safety or welfare, or cause injury to property.

(6) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or materials are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(7) *Discharge of waste matter.* No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such a manner as to endanger the public health, safety or welfare, or cause injury to property.

Prior to improvement location permit issuance for any industrial use:

a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities, shall be submitted to and written approval obtained from:

1. Construction of public facilities - the Indiana Department of Environmental Management and the City of Indianapolis, Division of ~~Permits~~ Compliance; or

2. Private sewage disposal systems - the Indiana State Board of health and the Health and Hospital Corporation of Marion County, Indiana;

b. Written approval of proposed connection to a public sewer shall be obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance; and

c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance.

Sec. 733-205. I-4-S Heavy Industrial Suburban District.

Statement of purpose. This district is designed for those heavy industrial uses which are typically characterized by certain factors which would be exceedingly difficult, expensive or impossible to eliminate. These industries are therefore buffered by sufficient area to minimize any detrimental aspects. The development standards and performance standards reflect the recognition of these problems. Wherever practical, this district is removed as far as possible from protected districts and buffered by intervening lighter industrial districts.

(a) *I-4-S development standards.*

(1) *Use.*

a. *Outside operations and storage area limitation.* In no case shall the total area of outside operations and storage exceed seventy-five (75) percent of the lot area, provided, however, outside operations and storage shall not be permitted within any required yard or required transitional yard (see section 733-213, Diagram I).

1. The maximum vertical height of equipment and materials stored shall be twenty (20) feet.

2. All such equipment and storage shall, at all times, be effectively screened by the fencing and buffer planting required by section 733-205(a)(6) and section 733-211(e).

3. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

i. 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

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard unless located within a parking area which is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

b. *Private or commercial mobile radio communications, radio or television antennas.* Towers or antennas shall be subject to the following regulations:

1. There shall be no height limitation, except conformity with all requirements and limitations of Chapter 735, Article I of this Code.

2. Any guy anchorages shall be set back at least thirty (30) feet from any lot line.

c. *Motor truck terminals.* Motor truck terminals shall be subject to the following exception: The parking of trucks or trailers shall not be defined or construed as outside storage in computing permitted outside storage and operations within this district.

(2) *Required minimum street frontage.* Each lot or industrial park shall have at least seventy-five (75) feet of frontage on a street right-of-way and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 733-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setbacks.* A side building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-205(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-205(a)(6).

(5) *Required minimum rear yard, minimum rear setback.* A rear building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-205(a)(6) or (8). Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-205(a)(6).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks - Yards fronting upon or abutting a protected district are subject to the requirements of section 733-205(a)(7) and (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than two hundred (200) feet, measured from and paralleling the proposed right-of-way line of the street, shall be provided, unless subject to the regulations of section 733-200(a)(3)b., c., or e. In the case where a proposed right-of-way does not exist or where the existing right-of-way line is greater, the existing right-of-way line shall be used for the setback measurements.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than one hundred fifty (150) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e).

2. The transitional yard requirements of section 733-205(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. Required front yards may include:

1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking areas not exceeding ten (10) percent of the total area of the required front yard and subject to the off-street parking regulations of section 733-210.

3. Drives, provided they are not located within thirty (30) feet of a lot line abutting a protected district.

b. Required side and rear yards may include:

1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210;

3. Driveways and interior access drives.

c. Required front, side or rear transitional yards:

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.

(8) *Maximum height of buildings and structures.* Along any required front, side or rear transitional yard, the maximum vertical height shall be:

a. Thirty-five (35) feet; or

b. For each foot in height in excess of thirty-five (35) feet, one (1) additional foot setback shall be provided beyond such required front side or rear transitional yard setback line for each foot of building or structural height above thirty-five (35) feet (see section 733-213, Diagram A).

c. Subsections a. and b. above are subject to the exceptions noted in section 733-200(a)(5).

Provided, however, the height of signs and sign structures shall comply with Chapter 734 of this Code.

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

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.

(12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 733-211.

(b) *Performance standards.*

(1) *Smoke, particulate matter, noxious materials.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform 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, particulate matter, or noxious or toxic gases are hereby incorporated by reference and made a part hereof.

(2) *Vibration.* No use shall cause earth vibrations or concussions beyond the lot lines, endangering the public health, safety or welfare, or causing injury to property.

(3) *Odor.* No use shall emit across the lot lines odorous matter in such quantities as to endanger the public health, safety or welfare, or cause injury to property.

(4) *Noise.* No use shall emit sound beyond the lot lines in such a manner or intensity as to endanger the public health, safety or welfare, or cause injury to property.

(5) *Glare and heat.* No use shall produce heat or glare of such intensity beyond the lot lines as to endanger the public health, safety or welfare, or cause injury to property.

(6) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or materials are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(7) *Discharge of waste matter.* No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such manner as to endanger the public health, safety or welfare, or cause injury to property. Prior to improvement location permit issuance for any industrial use:

a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from:

1. Construction of public facilities - the Indiana Department of Environmental Management and the City of Indianapolis, Division of ~~Permits~~ Compliance; or

2. Private sewage disposal systems - the Indiana State Board of Health and the Health and Hospital Corporation of Marion County, Indiana;

b. Written approval of proposed connection to a public sewer shall be obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance; and

c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance.

Sec. 733-206. I-1-U Restricted Industrial Urban District regulations.

Statement of purpose. This district is intended for the same general uses as the I-1-S District. It is planned, however, for use within the existing developed urban area characterized by small lots, outmoded or obsolescent industrial buildings, erratic or partial land development. In addition, certain industrial and residential areas within redevelopment projects or adjacent to new interstate freeways are suitable for the I-1-U classification. In order to stabilize existing establishments and districts, and to give impetus to future growth of older as well as new districts, these regulations are designed to permit improvement of the typical long-standing central city industrial areas without deterring expansion and new construction. In order to retain high character in this district, all operations must be contained within enclosed structures, except storage which must be completely screened.

(a) *I-1-U development standards.*

(1) *Use.*

a. *Enclosed operations.* All operations, servicing or processing (except storage and off-street loading) shall be conducted within completely enclosed buildings.

b. *Outside storage.* All storage of materials or products shall be:

1. Within completely enclosed buildings; or

2. Effectively contained by a chain link, solid, lattice or similar type fence or wall, with ornamental, nonsolid, chain link or similar type entrance and exit gates. (Canvas may be attached to gates for effective screening.) The height of such fence or wall shall be at least six (6) feet and shall not exceed ten (10) feet. Such fence or wall shall be surrounded by trees or an evergreen hedge of a height not less than the height of such fence or wall, to be planted following the provisions for landscaping and screening of required transitional yards of section 733-211(e)(2). The storage of materials or products within the enclosure may not exceed the height of the fence.

c. *Outside storage area limitation.*

1. Total area of outside storage shall not exceed twenty-five (25) percent of the total gross floor area of enclosed structures and buildings.

2. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

   i. 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

   ii. Be located behind the established front building line; and

   iii. Not be located within a required yard or required transitional yard unless located within a parking area which is permitted in a required yard.

   Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

(2) *Required minimum street frontage.* Each lot or industrial park shall have at least thirty-five (35) feet of frontage on a street right-of-way and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines unless subject to the established setback provisions of section 733-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setbacks.* A side building setback of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-206(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-206(a)(6).

(5) *Required minimum rear yard, minimum rear setback.* A rear building setback of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-206(a)(6) or (8). Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-206(a)(6).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks - Yards fronting upon or abutting a protected district are subject to the requirements of section 733-206(a)(7) and (8) in addition to the following requirements:

   a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than thirty (30) feet, measured from and paralleling the proposed right-of-way line of the street, shall be provided, unless subject to the regulations of section 733-200(a)(3)b., c., e. In the case where a proposed right-of-way does not exist or where the existing right-of-way line is greater, the existing right-of-way line shall be used for the setback measurements.

   b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line. Provided, however, additional front, side or rear setback distances for transitional yards, as specified in section 733-206(a)(8), shall be required to permit building heights exceeding twenty-two (22) feet to a maximum height of forty (40) feet (see section 733-213, Diagram A).

      Exceptions:

      1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e).

      2. The transitional yard requirements of section 733-206(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent

variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. Required front yards may include:

1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Driveways, provided they are not located within twenty (20) feet of a lot line abutting a protected district.

b. Required side and rear yards may include:

1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210;

3. Driveways and interior access drives.

c. Required front, side and rear transitional yards:

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.

(8) *Maximum height of buildings and structures.* Forty (40) feet subject to the exceptions noted in section 733-200(a)(5). Provided, however, along any required front, side or rear transitional yard, the maximum vertical height shall be:

a. Twenty-two (22) feet; or

b. Forty (40) feet if for each foot of height in excess of twenty-two (22) feet, to an absolute maximum height of forty (40) feet, one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear transitional yard setback line for each foot of building or structural height above twenty-two (22) feet (see section 733-213, Diagram A).

c. The height of signs and sign structures shall comply with Chapter 734 of this Code.

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

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.

(12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 733-211.

(b) *Performance standards.*

(1) *Noise, vibration, odor, glare, heat.* In no case shall production or operational noise, vibration, odor, glare, or intense heat be permitted to escape beyond the lot lines.

(2) *Smoke, particulate matter, noxious material.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform 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, particulate matter, or noxious or toxic gases are hereby incorporated by reference and made a part hereof.

(3) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or materials are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(4) *Discharge of waste matter and storm drainage.* No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such a manner as to endanger the public health, safety or welfare; or cause injury to property. Prior to improvement location permit issuance for any industrial use:

a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities, shall be submitted to and written approval obtained from:

1. Construction of public facilities - the Indiana Department of Environmental Management and the City of Indianapolis, Division of ~~Permits~~ Compliance; or

2. Private sewage disposal systems - the Indiana State Board of Health and the Health and Hospital Corporation of Marion County, Indiana;

b. Written approval of proposed connection to a public sewer shall be obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance; and

c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance.

Sec. 733-207. I-2-U Light Industrial Urban District.

Statement of purpose. This district is designed for those industries that typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odor, etc.) which extend beyond the lot lines. Outdoor operations and storage are completely screened if adjacent to protected districts, and are limited throughout the district to a percentage of the total operation. Wherever possible, this district is located between a protected district and a heavier industrial area to serve as a buffer zone. This district has been established for application to the older industrial districts within the central city and specifically provides for the use of shallow industrial lots.

(a) *I-2-U development standards.*

(1) *Use.*

a. *Enclosed operations.* All operations, servicing or processing located within three hundred (300) feet of a protected district boundary (except storage and off-street loading) shall be conducted within a completely enclosed building.

b. *Outside storage.* All storage of materials or products within three hundred (300) feet of a protected district boundary shall be:

1. Within completely enclosed buildings; or

2. Effectively contained by a chain link, solid, lattice or similar type fence or wall, with ornamental, nonsolid, chain link or similar type entrance and exit gates. (Canvas may be attached to gates for effective screening.) The height of such fence or wall shall be at least six (6) feet and shall not exceed ten (10) feet. Such fence or wall shall be surrounded by trees or an evergreen hedge of a height not less than the height of such fence or wall, to be planted following the provisions for landscaping and screening of required transitional yards of section 733-211(e)(2). The storage of materials or products within the enclosure may not exceed the height of the fence.

c. *Outside operations and storage limitation.*

1. In no case shall the total area of outside operations and storage exceed twenty-five (25) percent of the total gross floor area of enclosed structures and buildings.

2. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

i. 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

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard unless located within a parking area which is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

d. *Private or commercial mobile radio communications, radio or television antennas.* Towers or antennas shall be subject to the following regulations:

1. There shall be no height limitation, except conformity with all requirements and limitations of Chapter 735, Article I of this Code.

2. Any guy anchorages shall be set back at least thirty (30) feet from any lot line.

(2) *Required minimum street frontage.* Each lot or industrial park shall have at least thirty-five (35) feet of frontage on a street right-of-way and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines unless subject to the established setback provisions of section 733-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setbacks.* A side building setback of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-207(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-207(a)(6).

(5) *Required minimum rear yards, minimum rear setbacks.* A rear building setback of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-207(a)(6) or (8). Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirements for transitional yards of section 733-207(a)(6).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks - Yards fronting upon or abutting a protected district are subject to the requirements of section 733-207(a)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than thirty (30) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided, unless subject to the regulations of section 733-200(a)(3)b., c., or e. In the case where a proposed right-of-way does not exist or where the existing right-of-way line is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot

line. Provided, however, additional front, side or rear setback distances for transitional yards, as specified in section 733-207(a)(8), shall be required to permit building heights exceeding twenty-two (22) feet to a maximum height of fifty (50) feet (see section 733-213, Diagram A).

Exceptions:

1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e).

2. The transitional yard requirements of section 733-207(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. Required front yards may include:

1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Driveways, provided they are not located within twenty (20) feet of a lot line abutting a protected district.

b. Required side and rear yards may include:

1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls, and similar appurtenant structures; and

2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210;

3. Driveways and interior access drives.

c. Required front, side or rear transitional yards:

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.

(8) *Maximum height of buildings and structures.* Fifty (50) feet, subject to the exceptions noted in section 733-200(a)(5). Provided, however along any required front, side or rear transitional yard, the maximum vertical height shall be:

a. Twenty-two (22) feet; or

b. Fifty (50) feet if for each foot of height in excess of twenty-two (22) feet, to an absolute maximum height of fifty (50) feet (not to exceed two (2) stories), one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear transitional yard setback line for each foot of building or structural height above twenty-two (22) feet (see section 733-213, Diagram A).

c. The height of signs and sign structures shall comply with Chapter 734 of this Code.

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

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.

(12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 733-211.

(b) *I-2-U performance standards.*

(1) *Smoke, particulate matter, noxious materials.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform 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, particulate matter, or noxious or toxic gases are incorporated by reference and made part hereof.

(2) *Vibration.* No use shall cause earth vibrations or concussions beyond the lot lines, endangering the public health, safety or welfare, or causing injury to property.

(3) *Odor.* No use shall emit across the lot lines odorous matter in such quantities as to endanger the public health, safety or welfare, or cause injury to property.

(4) *Noise.* No use shall emit sound beyond the lot lines in such a manner or intensity as to endanger the public health, safety, or welfare, or cause injury to property.

(5) *Glare.* No use shall produce heat or glare of such intensity beyond the lot lines as to endanger the public health, safety, or welfare, or cause injury to property.

(6) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or materials are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(7) *Discharge of waste matter and storm drainage.* No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; and the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such a manner as to endanger the public health, safety or welfare; or cause injury to property. Prior to improvement location permit issuance for any industrial use:

a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from:

1. Construction of public facilities - the Indiana Department of Environmental Management and the City of Indianapolis, Division of ~~Permits~~ Compliance; or

2. Private sewage disposal systems - the Indiana State Board of Health and the Health and Hospital Corporation of Marion County, Indiana;

b. Written approval of proposed connection to a public sewer shall be obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance; and

c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance.

Sec. 733-208. I-3-U Medium Industrial Urban District.

Statement of purpose. This district is designed as an intermediate central city district for industries which are heavier in character than those permitted in the Light Industrial Urban District but which are not of the heaviest industrial types. Because of the nature of these industries, the district will be located away from protected districts and buffered by lighter industrial districts. Where this district abuts protected districts, setbacks are large and enclosure of activities and storage is required.

(a) *I-3-U development standards.*

(1) *Use.*

a. *Enclosed operations.* All operations, servicing, or processing located within three hundred (300) feet of a protected district boundary (except storage and off-street loading) shall be conducted within completely enclosed buildings.

b. *Outside storage.* All storage of materials or products within three hundred (300) feet of a protected district boundary shall be:

1. Within completely enclosed buildings; or

2. Effectively contained by a chain link, solid, lattice or similar type fence or wall, with ornamental nonsolid, chain link or similar type entrance and exit gates. (Canvas may be attached to gates for effective screening.) The height of such fence or wall shall be at least six (6) feet and shall not exceed ten (10) feet. Such fence or wall shall be surrounded by trees or an evergreen hedge of a height not less than the height of such fence or wall, to be planted following the provisions for landscaping and screening of required transitional yards of section 733-211(e)(2). The storage of materials or products within the enclosure may not exceed the height of the fence.

c. *Outside operations and storage area limitation.*

1. In no case shall the total area of outside operations and storage exceed fifty (50) percent of the total gross floor area of enclosed structures and buildings.

2. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

i. 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

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard unless located within a parking area which is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

d. *Private or commercial mobile radio communications, radio or television antennas.* Towers or antennas shall be subject to the following regulations:

1. There shall be no height limitation, except conformity with all requirements and limitations of Chapter 735, Article I of this Code.

2. Any guy anchorages shall be set back at least thirty (30) feet from any lot line.

e. *Motor truck terminals.* Motor truck terminals shall be subject to the following exception: The parking of trucks or trailers shall not be defined or construed as outside storage in computing permitted outside storage and operations within this district.

(2) *Required minimum street frontage.* Each lot or industrial park shall have at least thirty-five (35) feet of frontage on a street right-of-way and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines unless subject to the established setback provisions of section 733-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setbacks.* A side building setback of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided, unless

subject to the additional transitional yard requirements of section 733-208(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-208(a)(6).

(5) *Required minimum rear yard, minimum rear setback.* A rear building setback of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-208(a)(6) or (8). Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-208(a)(6).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks - Yards fronting upon or abutting a protected district are subject to the requirements of section 733-208(a)(7) and (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than forty (40) feet, measured from and paralleling the proposed right-of-way line of the street, shall be provided, unless subject to the regulations of section 733-200(a)(3)b., c., or e. In the case where a proposed right-of- way does not exist or where the existing right-of-way line is greater, the existing right-of-way line shall be used for the setback measurements.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback not less than forty (40) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line. Provided, however, additional front, side or rear setback distances for transitional yards, as specified in section 733-208(a)(8), shall be required to permit building heights exceeding thirty-five (35) feet (see section 733-213, Diagram A).

Exceptions:

1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e).

2. The transitional yard requirements of section 733-208(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. Required front yards may include:

1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Driveways, provided they are not located within twenty (20) feet of a lot line abutting a protected district.

b. Required side and rear yards may include:

1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210;

3. Driveways and interior access drives.

c. Required front, side or rear transitional yards:

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.

(8) *Maximum height of buildings and structures.* Along any required front, side or rear transitional yard, the maximum vertical height shall be:

a. Thirty-five (35) feet; or

b. For each foot of height in excess of thirty-five (35) feet, one (1) additional foot setback shall be provided beyond such required front, side or rear transitional yard setback line for each foot of building or structural height above thirty-five (35) feet (see section 733-213, Diagram A). Subsections a. and b. above are subject to the exceptions noted in section 733-200(a)(5).

c. The height of signs and sign structures shall comply with Chapter 734 of this Code.

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

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.

(12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 733-211.

(b) *I-3-U performance standards.*

(1) *Smoke, particulate matter, noxious materials.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform 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, particulate matter, or noxious or toxic gases are hereby incorporated by reference and made a part hereof.

(2) *Vibration.* No use shall cause earth vibrations or concussions beyond the lot lines, endangering the public health, safety or welfare, or causing injury to property.

(3) *Odor.* No use shall emit across the lot lines odorous matter in such quantities as to endanger the public health, safety or welfare, or cause injury to property.

(4) *Noise.* No use shall emit sound beyond the lot lines in such a manner or intensity as to endanger the public health, safety or welfare, or cause injury to property.

(5) *Glare and heat.* No use shall produce heat or glare of such intensity beyond the lot lines as to endanger the public health, safety or welfare, or cause injury to property.

(6) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or materials are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(7) *Discharge of waste matter and storm drainage.* No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such a manner as to endanger the public health, safety or welfare, or cause injury to property. Prior to improvement location permit issuance for any industrial use:

a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from:

1. Construction of public facilities - the Indiana Department of Environmental Management and the City of Indianapolis, Division of ~~Permits~~ Compliance; or

2. Private sewage disposal systems - the Indiana State Board of Health and the Health and Hospital Corporation of Marion County, Indiana;

b. Written approval of proposed connection to a public sewer shall be obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance; and

c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance.

Sec. 733-209. I-4-U Heavy Industrial Urban District.

Statement of purpose. This district is designed for those heavy industrial uses within the central city which are typically characterized by certain factors which would be exceedingly difficult, expensive or impossible to eliminate, and should be buffered by sufficient area to minimize any detrimental aspects. The development standards and performance standards reflect the recognition of these problems. Wherever practical, this district is removed as far as possible from protected districts and buffered by intervening lighter industrial districts.

(a) *I-4-U development standards.*

(1) *Use.*

a. *Outside operations and storage area limitation.* In no case shall the total area of outside operations and storage exceed seventy-five (75) percent of the lot area, provided, however, outside operations and storage shall not be permitted within any required yard or required transitional yard (see section 733-213, Diagram I).

1. The maximum vertical height of equipment and materials stored shall be twenty (20) feet.

2. All such equipment and storage shall, at all times, be effectively screened by the fencing and buffer planting required by section 733-209(a)(6) or section 733-213(e).

3. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

i. 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

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard unless located within a parking area which is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

b. *Private or commercial mobile radio communications, radio or television antennas.* Towers or antennas shall be subject to the following regulations:

1. There shall be no height limitation, except conformity with all requirements and limitations of Chapter 735, Article I of this Code.

2. Any guy anchorages shall be set back at least thirty (30) feet from any lot line.

c. *Motor truck terminals.* Motor truck terminals shall be subject to the following exception: The parking of trucks or trailers shall not be defined or construed as outside storage in computing permitted outside storage and operations within this district.

(2) *Required minimum street frontage.* Each lot or industrial park shall have at least thirty-five (35) feet of frontage on a street right-of-way and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines unless subject to the established setback provisions of section 733-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setbacks.* A side building setback of not less than twenty (20) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yards requirements of section 733-209(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-209(a)(6).

(5) *Required minimum rear yards, minimum rear setbacks.* A rear building setback of not less than twenty (20) feet in depth, measured from and paralleling the lot line, shall be provided, unless subject to the additional transitional yard requirements of section 733-209(a)(6) or (8). Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-209(a)(6).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks - Yards fronting upon or abutting a protected district are subject to the requirements of section 733-209(a)(7) and (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than fifty (50) feet, measured from and paralleling the proposed right-of-way line of the street, shall be provided, unless subject to the regulations of section 733-200(a)(3)b., c. or e. In the case where a proposed right-of-way does not exist or where the existing right-of-way line is greater, the existing right-of-way line shall be used for the setback measurements.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than fifty (50) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e).

2. The transitional yard requirements of section 733-209(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. Required front yards may include:

1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Driveways, provided they are not located within twenty (20) feet of a lot line abutting a protected district.

b. Required side and rear yards may include:

1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and

2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210;

3. Driveways and interior access drives.

c. Required front, side or rear transitional yards:

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.

(8) *Minimum height of buildings and structures.* Along any required front, side or rear transitional yard, the maximum vertical height shall be:

a. Thirty-five (35) feet; or

b. For each foot of height in excess of thirty-five (35) feet, one (1) additional foot setback shall be provided beyond such required front side or rear transitional yard setback line for each foot of building or structural height above thirty-five (35) feet (see section 733-213, Diagram A). Subsections a. and b. above are subject to the exceptions noted in section 733-200(a)(5). Provided, however, the height of signs and sign structures shall comply with Chapter 734 of this Code.

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

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.

(11)*Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.

(12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 733-211.

(b) *Performance standards.*

(1) *Smoke, particulate matter, noxious materials.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform 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, particulate matter, or noxious or toxic gases are hereby incorporated by reference and made a part hereof.

(2) *Vibration.* No use shall cause earth vibrations or concussions beyond the lot lines, endangering the public health, safety or welfare, or causing injury to property.

(3) *Odor.* No use shall emit across the lot lines odorous matter in such quantities as to endanger the public health, safety or welfare, or cause injury to property.

~~(3)~~(4) *Noise.* No use shall emit sound beyond the lot lines in such a manner or intensity as to endanger the public health, safety or welfare, or cause injury to property.

(5) *Glare and heat.* No use shall produce heat or glare of such intensity beyond the lot lines as to endanger the public health, safety or welfare, or cause injury to property.

(6) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or materials are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(7) *Discharge of waste matter and storm drainage.* No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such a

manner as to endanger the public health, safety or welfare; or cause injury to property. Prior to improvement location permit issuance for any industrial use:

a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from:

1. Construction of public facilities - the Indiana Department of Environmental Management and the City of Indianapolis, Division of ~~Permits~~ Compliance; or

2. Private sewage disposal systems - the Indiana State Board of Health and the Health and Hospital Corporation of Marion County, Indiana;

b. Written approval of proposed connection to a public sewer shall be obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance; and

c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the ~~City of Indianapolis,~~ Division of ~~Permits~~ Compliance.

Sec. 733-210. Off-street parking and loading regulations.

(a) *General provisions.*

(1) *Application of regulations.* The off-street parking and loading provisions of this chapter shall apply as follows:

a. *Buildings, structures, uses hereafter established -- Exception permits previously issued.* For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking and loading areas shall be provided in accordance with the regulations of this section. However, where improvement location and building permits have been issued prior to the effective date of this chapter, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion (but such time period not to exceed two (2) years after the issuance of such building permit), parking and loading spaces in the amounts required for issuance of such permits may be provided in lieu of any different amounts required by the off-street parking and loading regulations of this chapter.

b. *Buildings, structures, uses existing or hereafter established -- Increased intensity of use.* When the intensity of use of any legally established building, structure or premises (existing on the effective date of this chapter or hereafter established) is increased resulting in a net increase of gross floor area or any other unit of measurement specified herein for determining required parking or loading spaces, parking spaces and loading spaces as required herein shall be provided for such increase in intensity of use. However, no building or structure lawfully erected, or use lawfully established, prior to the effective date of this chapter shall be required to provide such additional parking spaces or loading spaces, unless and until the aggregate increase in any unit of measurement specified herein for determining required parking spaces or loading areas causes an increase in the required number of parking spaces or loading areas that equals fifteen (15) percent or more of the number of parking spaces or loading spaces existing on the effective date of this chapter, in which event parking spaces and loading spaces as required herein shall be provided for the total increase.

c. *Change of use.* Whenever the type of use of a building, structure or premises is hereafter changed to a new type of use permitted by this chapter, parking spaces and loading spaces shall be provided as required for such new type of use, subject to the exception noted in section 733-210(a)(1)b.

(2) *Existing parking areas or loading areas.* Required accessory off-street parking areas or loading areas in existence on the effective date of this chapter shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirement for such use as would be required for such use as a new use of a building, structure or premises under the provisions of this chapter.

(3) *New or expanded parking areas or loading areas.* Nothing in this chapter shall prevent the establishment of, or expansion of the amount of, parking areas or loading areas to serve any existing use of land or building, provided that all regulations herein governing the location, design, landscaping, construction and operation of such areas shall be adhered to.

(4) *Damage or destruction.* For any nonconforming uses and structures or buildings which are hereafter damaged or partially destroyed by fire or other naturally occurring disaster, provided the damage or destruction does not exceed two-thirds (2/3) of the gross floor area of the building, structure or facilities affected, and which is reconstructed, off-street parking and loading spaces equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading spaces in excess of those required by this chapter for equivalent new use or construction.

(5) *Control of off-site parking areas.* In cases where accessory parking areas are permitted on land other than the lot on which the building or use served is located, such areas shall be in the same control as the lot occupied by the building or use to which the parking areas are accessory.

(6) *Submission of site plan.* Any application for an improvement location permit shall include a site plan, drawn to scale and fully dimensioned, complying with all requirements of Chapter 730, Article III of this Code. Such site plan shall further demonstrate compliance with all applicable standards of this chapter.

(7) *Computation.* In determining the minimum required number of off-street parking spaces or loading spaces, when a computation of required parking spaces or loading spaces results in a fraction of one-half (1/2) or greater, the number of required parking spaces or loading spaces shall be rounded up to the next whole number.

(b) *Off-street parking regulations.* Off-street parking areas for motor vehicles shall be provided for all uses in the industrial districts in accordance with the following regulations, in addition to the requirements of section 733-210(a):

(1) *Common or combined off-street accessory parking areas.* Common or combined off-street accessory parking areas for separate uses may be provided to serve two (2) or more primary buildings or uses, provided the total number of spaces so provided is not less than the sum of the separate requirements for each such use, and provided that all regulations governing location of accessory parking areas, in relation to the use served are adhered to.

(2) *Minimum parking lot and parking spaces dimensions.*

a. The interior access drives, interior access driveways, drives, driveways, entrances, exits, aisles, bays and traffic circulation for parking lots shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York. The recommended specifications noted in Architectural Graphic Standards for access drives, interior access driveways, drives, driveways, entrances, aisles, bays and traffic circulation for parking lots are hereby incorporated into this chapter by reference and made a part hereof; except that minimum parking space (or stall) dimensions shall be provided as set forth below.

b. Each off-street parking space shall have, regardless of angle of parking, a usable parking space dimension measuring not less than nine (9) feet in width (measured perpendicularly from the sides of the parking space) and not less than eighteen (18) feet in length.

Exception: All parking spaces reserved for the use of physically handicapped persons shall have a usable parking space dimension measuring not less than thirteen (13) feet in width (measured perpendicularly from the side of the parking space) and not less than twenty (20) feet in length (see also section 733-210(b)(10), required parking spaces for the disabled).

(3) *Access to and from parking areas.*

a. Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

b. All off-street parking areas shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access. Off-street parking areas shall

be designed and located so that vehicles shall not back from or into a public street or adjoining property, unless the lot and the adjoining property are located within the same industrial park and such maneuverability areas are subject to a recorded easement agreement allowing such maneuverability.

c. Plans and specifications for: 1) the width of access drives; 2) location of access drives from the nearest point of two (2) intersecting street rights-of-way; and 3) the design and location of frontage lanes and passing blisters, shall be submitted to, and written approval obtained from, the City of Indianapolis, Division of ~~Permits~~ Compliance or the Traffic Engineering Department having jurisdiction thereof. Such plans and specifications shall comply with the applicable standards and regulations of such division/department.

(4) *Use of parking areas.*

a. The parking area shall not be used for the storage, display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or material. The parking area shall not be used for the storage of any inoperable vehicles.

b. Buildings or structures for guards, attendants or watchmen shall be permitted; however, any such structure shall not occupy a required off-street parking space(s) and shall comply with all setback requirements for parking areas.

c. Loading spaces, as required in section 733-210, shall not constitute a required off-street parking space; nor shall any off-street parking area be used as a loading space or area.

(5) *Location and setback.*

a. All parking spaces required to serve buildings or uses erected or established after the effective date of this chapter shall be located on the same lot as the building or use served. Buildings or uses existing on the effective date of this chapter which are subsequently altered or enlarged so as to require the provision of additional parking spaces under the requirements of this chapter may be served by parking spaces located on land other than the lot on which the building or use served is located, provided such spaces are within five hundred (500) feet of a lot line of the use served. (See control of off-site parking areas, section 733-210(a)(5)).

b. Front yards: Off-street parking may be located in minimum required front yards of I-1-S, I-2-S, I-3-S and I-4-S Districts, provided the total parking area does not occupy more than ten (10) percent of the total area of the minimum required front yard. In any industrial district, off-street parking may be located in front of the building, provided the parking area is located between the required front building setback line and the building.

c. Side and rear yards: Off-street parking may be located in required side and rear yards.

(6) *Surface of parking area.*

a. Off-street parking areas may be open to the sky, covered, or enclosed in a building. In any instance where a building is constructed or used for parking, it shall be treated as any other building or structure and subject to all use and development standards requirements of the applicable industrial district in addition to the requirements contained herein.

b. All off-street parking areas, and the access to and from such areas, shall be hardsurfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one (1) year after the commencement of the use for which the parking area is provided, where ground or weather conditions are not immediately suitable for permanent surfacing as specified above.

c. The parking area(s), where abutting a required landscaped yard or area, shall be designed and constructed in such a manner that no part of any parked vehicle shall extend beyond the boundary of the established parking area into any minimum required landscaped yard or area or onto adjoining property.

(7) *Lighting of parking area.*

a. When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.

b. 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.

c. Objectionable light on to adjacent properties and streets shall be avoided to prevent direct glare or disability glare.

d. Lighting levels for outdoor parking areas shall meet the following minimum average maintained horizontal factualness (as specified in Architectural Graphics Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York). The minimum average maintained horizontal factualness specified in Architectural Graphics Standards for lighting levels for outdoor parking areas are hereby incorporated into this chapter by reference and made a part hereof.

(8) *Landscaping.* The ground area between the required off-street parking area setback and any lot line abutting a protected district shall be screened and landscaped in accordance with the requirements of section 733-211(e).

(9) *Number of parking spaces required.*

a. All uses permitted in the I-1-S, I-2-S, I-3-S, and I-4-S Districts shall provide a minimum of one (1) parking space for each one and one-half (11/2) persons on the premises, computed on the basis of the greatest estimated number of persons at any one (1) period during the day or night.

b. All uses permitted in the I-1-U, I-2-U, I-3-U, and I-4-U Districts shall provide a minimum of one (1) parking space for each two (2) persons on the premises, computed on the basis of the greatest estimated number of persons at any one (1) period during the day or night.

(10) *Required parking spaces for the disabled.* Every parking area available to the public shall have parking spaces reserved for the use of physically handicapped persons, as defined in section 733-213, according to the following schedule:

Total Required Number of Parking Spaces	*Minimum Number of Reserved Spaces*
0 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	Two (2) percent of the total number of parking spaces.
1001 and over	Twenty (20), plus one (1) for each one hundred (100) spaces over one thousand (1000).

(c) *Off-street loading regulations.* Off-street loading areas accessory to uses in the industrial districts shall be provided and maintained in accordance with the following regulations, in addition to the requirements of section 733-210(a):

(1) *Minimum loading space dimensions.*

a. A required off-street loading space shall be at least twelve (12) feet in width by at least fifty-five (55) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fifteen (15) feet.

b. The interior access drives, interior access driveways, driveways, aisles, loading spaces and vehicular circulation and maneuvering for loading areas shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York. The

recommended specifications noted in Architectural Graphic Standards for interior access drives, interior access driveways, driveways, aisles, loading spaces and vehicular circulation and maneuvering for loading areas are hereby incorporated into this chapter by reference and made a part hereof.

(2) *Access to and from loading area.*

a. Each required off-street loading space shall open directly upon a hardsurfaced aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such loading space.

b. All off-street loading areas shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access.

c. Plans and specifications for: 1) the width of access drives; 2) location of access drives from the nearest point of two (2) intersecting street rights-of-way; and 3) the design and location of frontage lanes and passing blisters, shall be submitted to, and written approval obtained from, the City of Indianapolis, Division of ~~Permits~~ Compliance or the Traffic Engineering Department having jurisdiction thereof. Such plans and specifications shall comply with the applicable standards and regulations of such division/department.

(3) *Location and setback.*

a. All required loading spaces shall be located on the same lot as the use served, and shall be so designed and located that trucks shall not back from or into a public street, or onto adjoining property unless the lot and the adjoining property are located within the same industrial park and such maneuverability areas are subject to a recorded easement agreement allowing such maneuverability.

b. No open loading area or loading space shall be located in a minimum required front yard, minimum required front transitional yard or the area between the front lot line and the front line of the primary building.

c. No loading area or loading space shall be located in a required side or rear transitional yard.

(4) *Screening.* All vehicle loading spaces on any lot abutting a protected district or separated by a public right-of-way from a protected district shall be enclosed within a building or screened and landscaped in addition to the industrial district's regulations for screening and landscaping transitional yards. Such screening and landscaping shall be installed as required in section 733-211(e).

(5) *Use of loading area.* Space allotted to off-street loading areas shall not be used to satisfy the off-street parking space requirements.

(6) *Surface of loading area.*

a. Off-street loading areas may be open to the sky, covered or enclosed in a building. In any instance where a building is constructed or used for loading, it shall be treated as any other structure and shall be subject to all use and development standards of the applicable industrial district in addition to the requirements contained herein.

b. All loading areas shall be hardsurfaced to adequately provide a durable and dust-free surface except that:

1. A gravel surface may be used for a temporary period not exceeding one (1) year after commencement of the use for which the loading area is provided, where ground and weather conditions are not immediately suitable for permanent surfacing as specified above.

2. A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.

c. The surface shall be graded, constructed and drained in such a manner that there will be no detrimental flow of water onto adjacent properties or public sidewalks.

(7) *Lighting of loading area.* When a loading area is illuminated, the lighting equipment shall be so located, shielded, and directed so that the lighting distribution is confined to the area to be lighted. Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.

(8) *Required loading spaces.* Off-street loading spaces shall be provided and maintained in accordance with the following minimum requirements for all industrial districts.

Gross Floor Area of Building (Sq. Ft.)	*Required Number of Loading Spaces*
1-- 40,000	1
40,001--100,000	2
100,001--200,000	3

For each additional two hundred thousand (200,000) square feet of gross floor area or fraction thereof, one (1) additional loading space shall be provided.

Sec. 733-211. Special regulations.

(a) *Minimum required front setback lines and front yards.* Front setbacks, having a minimum depth in accordance with the following setback standards, shall be provided along all public and private street right-of-way lines, and the minimum required building setback lines shall be as follows:

(1) No part of any building shall be built closer to the proposed right-of-way lines of the following streets than:

Thirty (30) feet from the proposed right-of-way or one hundred (100) feet from the center line, whichever is greater.	Expressway, freeway, primary arterial, parkway, secondary arterial (as designated on the Official Thoroughfare Plan for Marion County, Indiana)
Fifty (50) feet ("S" districts) Twenty (20) feet ("U" districts) from the proposed right-of-way	Collector street, local street, marginal access street (including marginal access streets with a coinciding right-of-way boundary immediately paralleling either a federal interstate highway route or any thoroughfare), cul-de-sac or any private street.

Subject to the following:

a. Any required front transitional yard shall have a minimum depth in accordance with the "required transitional yards, minimum setback" as set forth in the applicable industrial district.

b. The required front yard and setback shall be located outside of and adjacent to the proposed right-of-way line of the street while paralleling and extending the full length of such right-of-way line, except when interrupted by driveway(s).

c. The uses of required front yards shall be those permitted in the provisions of the "use of required yards" sections of the applicable industrial zoning district.

d. In the case where a proposed right-of-way line does not exist, as determined by the Official Thoroughfare Plan for Marion County, Indiana, or where the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

(2) No part of any structure, including parking areas, parking spaces, interior access drives, and interior access driveways, shall be built closer than twenty (20) feet to the right-of-way line of a federal interstate highway route.

(b) *Industrial park - plan requirements for improvement location permit issuance:* Prior to improvement location permit issuance for any building or structure within an industrial park, three (3)

copies of a conceptual site plan and landscape plan for the entire industrial park shall be on file with the Department of Metropolitan Development.

(c) *Street requirements:*

(1) *Clear sight triangular area.* The following provisions shall apply to all streets, whether public or private: All landscape plantings, structural barriers, shrubs, trees, structures or other objects, temporary or permanent, shall permit completely unobstructed vision within a clear sight triangular area between the heights of two and one-half (21/2) and nine (9) feet above the crown of the streets, drives, or driveways. A clear sight triangular area shall be established as one (1) of the following (see section 733-213, Diagram F):

a. On a corner lot, the clear sight triangular area is formed by the street right-of-way lines, the pavement edge of the drives or driveways and the line connecting points twenty-five (25) feet from the intersection of such street right-of-way lines and pavement edge lines; or in the case of a round or cut property corner, from the intersection of the street right-of-way lines and pavement edge lines extended; or

b. On a lot adjacent to an at-grade railroad crossing, the clear sight triangular area is formed by the lot line coterminous with the railroad right-of-way, the street right-of-way line or pavement edge line, and the line connecting points twenty-five (25) feet from the intersection of such lines; or

c. On a lot which has a driveway, abuts an alley or which is next to a lot which has a driveway, the two (2) clear sight triangular areas are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and the line connecting points ten (10) feet from the intersection of the street right-of-way line and driveway or alley lines extended.

(2) *Requirements for public streets.*

a. All public streets shall be dedicated to the public, accepted for public maintenance by the Department of ~~Capital Asset Management (DCAM)~~ Public Works (DPW), and improved and constructed in accordance with the standards required by the ~~Indianapolis DCAM~~ DPW Standards for Street and Bridge Design and Construction, or as approved by the director of the ~~DCAM~~ DPW.

b. The rights-of-way of any streets within an industrial park which are indicated on the Official Thoroughfare Plan for Marion County, Indiana, or which have been required by zoning, variance, or platting commitment, condition or covenant to be developed as public streets, are to be constructed to specific standards based upon their proposed functional classification and shall be dedicated to the public, or the right-of-way thereof shall be reserved for the future.

(3) *Requirements for private streets, driveways, interior access driveways and interior access drives:*

a. All private streets, driveways, interior access driveways and interior access drives shall meet the minimum standards for construction, materials or use in construction, and design as specified by the "Standard Specifications", Indiana Department of Transportation (8-17-1-39), 1988 Edition, the Indiana Department of Transportation (IDOT) Supplemental Specifications, and the Indianapolis Department of ~~Transportation (IDOT)~~ Public Works (DPW) Standards for Street and Bridge Design and Construction. In the event ~~DCAM~~ DPW specifications conflict with the IDOT Standard Specifications, the most stringent specifications shall govern. The "Standard Specifications" of the IDOT are incorporated into this chapter by reference. Two (2) copies of the "Standard Specifications" are on file and available for public inspection in the office of the ~~Neighborhood and Development Services~~ Division of Planning of the Department of Metropolitan Development. Provided, however, that the standard specifications incorporated into this chapter shall be modified as follows:

Private interior streets, private interior access drives and private interior access driveways shall have a minimum width, including gutters, curbing, and off-street parallel parking spaces, if provided, of:

One-way, no parking: twelve (12) feet

One-way, parallel parking on one (1) side of the street only: twenty (20) feet

Two-way, no parking: twenty (20) feet

Two-way, parallel parking on one (1) side of the street only: twenty-seven (27) feet

Two-way, parallel parking on both sides of the street: thirty-six (36) feet

b. Private streets, interior access drives and interior access driveways shall be privately maintained (not by governmental agencies) in good condition and free of chuckholes, standing water, weeds, dirt, trash and debris.

c. Interior access drives and driveways shall be designed and maintained with sufficient width to provide for the passage of emergency vehicles at all times.

d. Private streets, interior access drives and interior access driveways within any industrial zoning district may be used to provide ingress and egress to any other industrial zoning district and to any other zoning district having a less intense use, which would include all protected districts and all commercial districts.

(d) *Requirements for temporary use structures or buildings; recycling containers or neighborhood collection points:*

(1) *Temporary use structures or buildings:* Temporary use structures shall be permitted in all industrial districts, under a temporary improvement location permit issued by the Administrator subject to the temporary use requirements specified below:

a. Temporary use structures or buildings shall comply with all setback requirements for a primary building on the site.

Exception: Temporary construction trailers may be permitted within required front, side or rear yards, provided they do not encroach into any clear sight triangular areas.

b. Any floodlights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.

c. A temporary improvement location permit for a temporary use structure shall be valid for a maximum of eighteen (18) months. An extension of time, not to exceed one hundred eighty (180) days, may be granted by the Administrator for good cause shown. Such request for extension must be filed with the Administrator prior to the termination date of the temporary improvement location permit.

d. All structures, buildings, appurtenances, trash or debris associated with the temporary use structure shall be removed from the site immediately upon completion or cessation of the temporary use.

(2) *Requirements for recycling containers or neighborhood recycling collection points.*

a. *Requirements for neighborhood recycling collection points.* Neighborhood recycling collection points shall be permitted in any industrial district. Household waste products permitted for collection at neighborhood recycling collection points, as defined in section 733-213, shall include the following:

Aluminum cans
Plastics
Paper products
Tin and metal cans
Glass containers

In addition to the materials listed above, other household scrap made of aluminum, brass, copper, or steel may also be collected at these facilities. However, all materials collected for delivery to the recycling facility shall be in amounts that allow delivery by vehicles which do not exceed a maximum load capacity of three-quarters of a ton in the I-1 and I-2 Industrial Districts. All deliveries that necessitate the use of vehicles in excess of this size shall be required to deliver the recyclable materials to a recycling station (as defined in section 733-213). This restriction is intended to protect the community character of the I-1 and I-2 Industrial Districts.

In the I-1 and I-2 Districts, those collection points that utilize a trailer as its primary structure shall be limited to one (1) trailer per site. The collection point shall be manned during all hours of operation. In addition to these requirements, the requirements for recycling containers (as specified in section 733-211(d)(2)b. below) shall also apply.

b. *Requirements for recycling containers.* Recycling containers shall be permitted in any industrial district. Recycling containers, as defined in section 733-213, shall be subject to the following requirements:

1. The use or structure shall not be located within any required yard or required transitional yard or within any street right-of-way and shall meet the minimum setback requirements of the district.

2. When the structure is located in the parking area of the primary use, the structure shall be located completely within a striped, off-street parking space(s) on the site and shall not be within a drive or maneuvering area.

3. A minimum of three (3) off-street parking spaces shall be provided on site. These off-street parking spaces are in addition to the required parking provided for the primary use. A suitable maneuvering area for access and turning shall also be provided as specified in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York.

4. All recyclable materials shall be stored within a recycling container and the surrounding lot areas shall be: i. maintained free of litter and debris; and ii. cleaned/inspected on a daily basis.

5. The recycling containers shall be clearly marked to identify the type of material which may be deposited; and the name, address, and telephone number of the operator and the hours of operation, and shall display a notice stating that no material shall be left outside the recycling containers.

6. The recycling containers shall be emptied or exchanged with a new container at or before the time the existing container becomes completely filled.

7. The recycling container shall not be located within one hundred (100) feet, measured in any direction, of a dwelling district. The measurement shall be taken from the exterior of the container to the zoning boundary of the dwelling district except when such container is separated from such dwelling district by an intervening street (see section 733-213, Diagram H).

8. Recycling containers shall be prohibited on lots of less than ten thousand (10,000) square feet in area.

(e) *Landscaping, screening and grounds maintenance.* Subject to the allowed uses in required yards, landscaping, screening and grounds maintenance shall be provided and maintained, for all development in all industrial districts in accordance with the following regulations:

(1) *Landscaping and screening in required yards.*

a. All required yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation, such as trees and shrubs as specified in section 733-211(e)(1)b. and c., and grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel may be used as a landscaping

accent, but shall not exceed twenty (20) percent of the area of the required yard in which it is used.

b. Landscaping and screening of the required front yard shall be provided and maintained according to the following minimum standards:

1. Landscaping in the required front yard shall consist of trees planted in accordance with one (1) of the two (2) following alternatives:

i. If deciduous shade (overstory) trees are used: There shall be one (1) tree planted at a maximum of every forty (40) feet on center of linear distance along all required front yards. These required trees may be grouped together in the required front yard; however, in no case shall spacing between the trees exceed eighty (80) feet (refer to section 733-213, Diagram G); or

ii. If deciduous ornamental (understory) trees are used: There shall be one (1) tree planted at a maximum of every twenty-five (25) feet on center of linear distance along the required front yard. These required trees may be grouped together in the required front yard; however, in no case shall spacing between the trees exceed fifty (50) feet (refer to section 733-213, Diagram G). Deciduous shade trees and deciduous ornamental trees may be grouped together in the required yards; however, in no case shall spacing between a deciduous shade tree and a deciduous ornamental tree exceed fifty (50) feet.

2. Screening in the required front yard of the project may include:

i. Wall or fence - an ornamental, decorative fence or masonry wall, up to a maximum height of ten (10) feet, may be used in conjunction with the required landscaping; or

ii. Berm - an earthen berm may be used in conjunction with the required landscaping. It shall be a maximum height of forty-two (42) inches, have a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation (a retaining wall may be used on one (1) side of the berm in lieu of a side slope, if desired); or

iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs may be used in conjunction with the required landscaping.

Provided, however, for all parking areas between the building line, as extended, and the street, there shall be provided and maintained along the front line of the parking area a screen of a minimum height of thirty-six (36) inches along a minimum of seventy-five (75) percent of the linear distance of the parking area (excluding the linear width of driveways) with a solid wall, solid fence, berm, or plant material screen. In addition, no linear open space between the above noted screening techniques shall be greater than thirty (30) feet.

The ground area between such wall, fence, berm, or plant material screen and the front proposed right-of-way line shall be planted and maintained in grass or other suitable ground cover.

A minimum of half of the required trees shall also be planted between the proposed right-of-way and the wall, fence, berm, or plant material screen.

c. Landscaping and screening in the required side and rear yards shall be provided and maintained according to the following minimum standards:

1. Landscaping in the required side and rear yards shall consist of trees planted in accordance with one (1) of the two (2) following alternatives:

i. If deciduous shade (overstory) trees are used: There shall be one (1) tree planted at a maximum of every sixty (60) feet on center of linear distance along all required side and rear yards. These required trees may be grouped together in the required side and rear yards; however, in no case shall spacing

between the trees exceed eighty (80) feet (refer to section 733-213, Diagram G); or

ii. If deciduous ornamental (understory) trees are used: There shall be one (1) tree planted at a maximum of every forty (40) feet on center of linear distance along all required side and rear yards. These required trees may be grouped together in the required side and rear yards; however, in no case shall spacing between the trees exceed fifty (50) feet (refer to section 733-213, Diagram G). Deciduous shade trees and deciduous ornamental trees may be grouped together in the required yards; however, in no case shall spacing between a deciduous shade tree and a deciduous ornamental tree exceed fifty (50) feet.

2. Screening in the required side and rear yard of the project may include:

i. Wall or fence - an ornamental, decorative fence or masonry wall up to a maximum height of ten (10) feet may be used in conjunction with the required landscaping; or

ii. Berm - an earthen berm may be used in conjunction with the required landscaping. It shall have a maximum height of ten (10) feet, have a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation; or

iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs may be used in conjunction with the required landscaping.

d. All landscape plantings, architectural screens (fences, walls), shrubs, trees, structures or other objects shall permit completely unobstructed vision within a clear sight triangular area as noted in section 733-211(c).

e. No architectural screen fronting upon or abutting a protected district shall be electrified with the intent of providing for an electrical shock if touched.

f. Barbed wire, razor wire and similar type wires shall not be permitted within the front yard setback, or in front of any existing building in the I-1, I-2, or I-3 (Urban or Suburban) Industrial Districts.

g. The minimum size of all required landscape plant materials, at the time of planting including substituting or replacement trees and shrubs, shall be as follows:

1. Deciduous shade (overstory) trees - two-and-one-half-inch caliper at six (6) inches above the ground.

2. Deciduous ornamental (understory) trees - one-and-one-half-inch caliper at six (6) inches above the ground.

3. Multi-stemmed trees - eight (8) feet in height.

4. Evergreen trees - five (5) to six (6) feet in height.

5. Deciduous or evergreen shrubs - twenty-four (24) inches in height. Shrubs are to be planted at a maximum of four (4) feet on center of linear distance along the required yard.

h. All trees and shrubs shall be planted or transplanted in accordance with the standards contained in American Standards for Nursery Stock, copyrighted in 1986 by the American Association of Nurserymen and approved May 2, 1986, by the American National Standards Institute, Inc. The standards contained in American Standards for Nursery Stock are hereby incorporated into this chapter by reference and made a part hereof. All trees and shrubs shall be mulched and maintained to give a clean and weed-free appearance.

i. In computing the number of trees to be planted in a required yard or a required transitional yard, a fraction of one-half (1/2) or greater shall be rounded up to count as an additional tree.

j. Existing trees may fulfill the requirements for tree planting in required yards or required transitional yards as long as the standards specified for required yards (section 733-211(e)(1)b. or c.) or required transitional yards (section 733-211(e)(2)b. or c.) are met.

k. The removal from any minimum required yard or any minimum required transitional yard of any existing live deciduous tree over four-inch caliper measured at four and one-half (41/2) feet above ground or of any existing shrub or evergreen tree over six (6) feet in height shall be prohibited except to facilitate the placement of utilities or to provide for necessary easements or drainage improvements. Removal of such tree(s) shall require the replanting of replacement tree(s) so that the total number of trees replanted equals the total number of trees removed. Replacement trees shall be of the same species as those trees removed unless approved otherwise by the Administrator. Replanting of these replacement trees shall occur within six (6) months of removal, or the next planting season, whichever occurs first.

l. All existing trees which are to be preserved shall be maintained without injury and with sufficient area for the root system to sustain the tree. Protective care and physical restraint barriers at the dripline, such as temporary protective fencing, shall be provided to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction. Heavy equipment traffic and the storage of construction equipment or materials shall not occur within the dripline of the tree.

(2) *Landscaping and screening of required transitional yards.* Landscaping and screening of yards fronting upon or abutting a protected district shall be provided and maintained, for all development in all industrial districts in accordance with the following regulations in addition to section 733-211(e)(1)d. through k.

a. All required transitional yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation such as trees, shrubs, hedges, and grasses or ground cover as specified in section 733-211(e)(2)b. and c., planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed twenty (20) percent of the area of the required yard in which it is used.

b. Landscaping and screening of required front transitional yards shall be provided and maintained according to the following minimum standards:

1. Landscaping in front transitional yards shall consist of trees planted in accordance with the standards specified for required front yards. See section 733-211(e)(1)b.1.

2. Screening in front transitional yards shall be provided in an open pattern to partially screen the industrial use. Provided, however, for any parking areas between the building line, as extended, and the street, there shall be provided and maintained along the front line of the parking area a buffer screen of a minimum of one (1) of the following:

i. Architectural screen - a wall or fence of ornamental block, brick, solid-wood fencing or combination thereof. Such wall or fence shall be a maximum of forty-two (42) inches and a minimum of thirty-six (36) inches in height and shall be so constructed to such minimum height to restrict any view therethrough; or

ii. Berm - An earthen berm shall be a maximum height of forty-two (42) inches and a minimum height of thirty-six (36) inches, a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation (a retaining wall may be used on one(1) side of the berm in lieu of a side slope, if desired).

Exception: The earthen berm may be combined with shrubs to attain the minimum height of thirty-six (36) inches.

iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs. Such shrubs shall attain a minimum height of thirty-six (36) inches at maturity; and the ground area between such wall, fence, berm, or hedge and the front right-of-way line shall be planted and maintained in grass

or other suitable ground cover. A minimum of half of the required trees shall also be planted between the proposed right-of-way and the wall, fence, berm, or hedge.

c. Required side and rear transitional yards shall be landscaped and have an effective screening of the industrial use.

1. Landscaping and screening required side and rear transitional yards using a solid wall or fence shall be provided and maintained according to the following minimum standards: Landscaping standards for required side or rear transitional yards using a solid wall or fence:

i. Trees shall be planted along all side and rear transitional yards according to the standards specified for tree planting in front required yards. See section 733-211(e)(2)b.1.

ii. The finished side of the fence shall face the protected district. Such fence or wall shall be constructed to a height of not less than six (6) feet and no more than ten (10) feet.

iii. A berm may be used in place of a solid fence or wall so long as the berm is a minimum of six (6) feet in height to a maximum of ten (10) feet, has a minimum crown width of two (2) feet, a side slope no greater than three to one (3:1), and shall be planted and covered in live vegetation.

Exception: The earthen berm may be combined with shrubs to attain the minimum height of six (6) feet.

2. Landscaping and screening in the required side and rear transitional yards, if a solid wall or solid fence is not used, shall be provided and maintained according to one (1) of the following minimum standards:

i. A combination of trees and shrubs:

(a) Trees - trees shall be planted in accordance with the standards specified for required front yards (see section 733-211(e)(2)b.); and

(b) Shrubs - shrubs shall be planted so that one hundred (100) percent of the linear distance of the required transitional yard is screened. Shrubs shall be planted at a maximum of four (4) feet on center of linear distance along the required transitional yard. The shrubs shall have a minimum ultimate height of six (6) feet and shall be either evergreen or densely twigged deciduous shrubs; or

ii. Low branching and densely twigged deciduous ornamental trees shall be planted to maintain a spacing of twelve and one-half (121/2) feet on center; or

iii. Densely branched evergreen trees shall be planted to maintain a spacing of twelve and one-half (121/2) feet on center; or

iv. A combination of i., ii., or iii. to be maintained so that one hundred (100) percent of the linear distance shall be screened.

Exception: Existing trees and shrubs may be used to screen industrial uses. However, required transitional yards must be supplemented where sparsely vegetated to maintain a dense visual barrier to a height of six (6) feet.

3. Landscaping and screening in the required side and rear transitional yards may be achieved by combining elements from (1) and (2) of this subsection, so long as the minimum standards set forth for that element utilized are satisfied.

(3) *Transitional yard reduction - landscape performance standards exceptions.* In order to provide flexibility and encourage enhanced landscaping adjacent to protected districts, the following set of landscape performance standards may be utilized to reduce the required front, side and rear transitional yards in the industrial districts. By providing landscaping in addition to the

standard requirement, required transitional yards may be reduced according to the following schedule:

TABLE A
LANDSCAPE PERFORMANCE STANDARDS REDUCTION IN
REQUIRED SIDE AND REAR TRANSITIONAL YARDS
IN THE SUBURBAN ("S") DISTRICTS

	District I-1-S	*I-2-S*	*I-3-S*	*I-4-S*
Landscape Type	*Required Transitional Yards (in feet)*			
Type A	50	50	100	150
Type B	35	35	70	100
Type C	20	20	40	50

TABLE B
LANDSCAPE PERFORMANCE STANDARDS REDUCTION IN
REQUIRED FRONT TRANSITIONAL YARDS
IN THE SUBURBAN ("S") DISTRICTS

	District I-1-S	*I-2-S*	*I-3-S*	*I-4-S*
Landscape Type	*Required Transitional Yards (in feet)*			
Type A	100	100	150	200
Type B	70	70	100	150
Type C	40	40	50	100

TABLE C
LANDSCAPE PERFORMANCE STANDARDS REDUCTION IN
REQUIRED SIDE AND REAR TRANSITIONAL YARDS
IN THE URBAN ("U") DISTRICTS

	District I-1-U	*I-2-U*	*I-3-U*	*I-4-U*
Landscape Type	*Required Transitional Yards (in feet)*			
Type A	30	30	40	50
Type B	15	15	20	20

TABLE D
LANDSCAPE PERFORMANCE STANDARDS REDUCTION IN
REQUIRED FRONT TRANSITIONAL YARDS
IN THE URBAN ("U") DISTRICTS

	District I-1-U	*I-2-U*	*I-3-U*	*I-4-U*
Landscape Type	*Required Transitional Yards (in feet)*			
Type A	30	30	40	50
Type B	15	15	20	20

Applicable landscape standards by type:

Landscape Type A - The standard chapter requirement for landscaping in the applicable transitional yard (as noted in section 733-211(e)(2)).

Landscape Type B - The standard chapter requirement for landscaping in the applicable transitional yards (as noted in section 733-211(e)(2)), except that two (2) times the number of trees normally required shall be provided.

Landscape Type C - The standard chapter requirement for landscaping in the applicable transitional yard (as noted in section 733-211(e)(2)), except that three (3) times the number of trees normally required shall be provided.

The required transitional yards may be reduced according to Tables A through D if the applicable landscape type noted above is provided.

Note--Below are examples of transitional yard reduction:

A site which is six hundred (600) feet by six hundred (600) feet or three hundred sixty thousand (360,000) square feet: In the I-4-S district, two hundred seventy thousand (270,000) square feet would be required for transitional yards if the site was surrounded by protected districts, using "Type A" landscaping.

Under "Type B" landscaping, one hundred eighty thousand (180,000) square feet would be required for transitional yards - or about a thirty-three (33) percent reduction from the standard. Land "added" for development would equal ninety thousand (90,000) square feet or over two (2) acres.

Under "Type C" landscaping, only ninety thousand (90,000) square feet would be required for transitional yards - or about a sixty-seven (67) percent reduction from the standard. Land "added" for development would equal one hundred eighty thousand (180,000) square feet, or over four (4) acres.

The Administrator shall review the reduction of required transitional yards prior to issuing an improvement location permit in order to ensure that the additional landscaping provided meets the applicable standards noted in this section. If the applicable standards are met, the landscape plan shall be stamped approved by the Administrator and become a part of the file and requirements for the improvement location permit. The reduction in required transitional yards, once approved by the Administrator, shall not require a variance of development standards.

(4) *Landscape plan requirements:* A landscape plan shall:

a. Be drawn on a copy of the site plan (or a simplified scale drawing thereof) and show exact locations and outline of all rights-of-way (both existing and proposed by the Official Thoroughfare Plan for Marion County), structures, buildings, sidewalks and pedestrian ways, streets, trash enclosures, project access and interior access drives and driveways, individual and project storage, permanent lighting fixtures, signs, benches, screens, walls, fences, natural vegetation areas, open space, recreational areas, transitional yards, adjacent property zones, and all underground and overhead lines within areas to be landscaped (with depths or heights indicated at intervals where lines change direction or where terminals or connections are provided);

b. Show dimensioned detailed elevation or section drawings of walls and fences;

c. Show all existing elevations and proposed land contour lines having at least two-foot intervals;

d. Show location and nature of existing and proposed drainage systems and their flow;

e. Include a tree survey of required yards or required transitional yards indicating the exact location of existing trees over four-inch caliper at four and one-half (41/2) feet above the ground and all flowering trees, shrubs and evergreens over six (6) feet in height;

f. Include the exact location of any existing tree two-and-one-half-inch caliper or greater at four and one-half (41/2) feet above the ground which will be counted as a required tree. Such trees, shrubs and evergreens shall be accurately labeled in the tree survey with species and caliper size indicated as either existing to remain or existing to be removed or transplanted;

g. Show all proposed planting by labeling the species, size, and spacing (on center).

(5) *Grounds maintenance:* The project owner or management shall:

a. Maintain the landscaping by keeping lawns mowed, all plants maintained as disease-free, and planting beds groomed, except in naturally occurring vegetation areas, such as thickets; and

b. Replace any required planting(s), which are removed or die after the date of planting per the previously approved plans on file. Such replacement shall occur during the next planting season.

(6) *Administrator approval of alternate plans.* The Administrator, upon request by the applicant, shall have the power to modify any landscape requirements and approve alternatives for those requirements as long as the alternative plan is appropriate for the site and its surrounding and is compatible and consistent with the intent of the stated standards. Such modification shall be noted on the alternative landscape plan, stamped approved by the Administrator and become a part of the file and requirements for the improvement location permit.

(f) *Appeal.* In all sections of this chapter 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 bring such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval.

(g) *Application of section 733-211.* This section 733-211 shall be applicable to all industrial districts.

SECTION 16. Section 733-213 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 733-213. 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 . . . 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.

Abut. To physically touch or border upon; or to share a common property line.

Access. The way by which vehicles shall have ingress to and egress from a land parcel or property and the street fronting along such property or parcel.

Access drive. That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property (see Diagram B).

Accessory. A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.

Administrator. Administrator of the ~~neighborhood and development services~~ division of planning of the department of metropolitan development or such division having jurisdiction, or their appointed representative.

Alley. Any 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(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from such lot(s).

Alteration. Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

Awning . A roof-like cover, often of fabric, metal, plastic, fiberglass or glass, designed and intended for protection from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or the like.

Batching plant. A facility which manufactures or prepares bituminous paving materials, aggregate concrete or bulk cement.

Buildable area. The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met (see Diagram C).

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 area. The total ground area, within the lot or project, covered by the primary structure plus garages, carports and other accessory buildings. The ground area of a structure, or portion thereof, not provided with surrounding exterior walls shall be the area immediately under the vertical projection of the roof or the floor above (see Diagram C).

Bulk storage. The storage of chemicals, petroleum products and other materials in aboveground containers for subsequent resale to distributors or retail dealers or outlets.

Canopy. A roof-like cover, often of fabric, metal, plastic, fiberglass or glass, on a support which is supported in total or in part from the ground, providing shelter over, for example, a doorway, outside walk or parking area.

Collector street. See street, collector.

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

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

Comprehensive plan. The Comprehensive Plan for Marion County, Indiana, or segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4.

Condition. An official agreement between the municipality and the petitioner concerning the use or development of the land as specified in the letter of grant of a petition as signed by the Administrator or secretary of the Board of Zoning Appeals.

Corner lot. See lot, corner.

Covenant. A legal agreement concerning the use of land.

Crown of the street. The highest point, most often at the center line, of a street cross-section of the street pavement between the existing curb lines.

Cul-de-sac. See street, cul-de-sac.

Curb cut. The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street (see Diagram B).

Curb line. A line located on either edge of the pavement, but within the right-of-way line (see Diagram B).

Dripline. The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.

Driveway. Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line (see Diagram B).

Erect. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

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

Floor area, gross. 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 center line of walls separating two (2) abutting buildings.

Front lot line. See lot line, front.

Front yard. See yard, front.

Frontage. The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.

Frontage, public street. The line of contact of a property along the front lot line between the public street and the abutting property which allows unobstructed direct access to the property.

Grade, established street. The crown elevation of a street pavement level abutting a property (as fixed by the Department of ~~Capital Asset Management~~ Public Works).

Grade level (adjacent ground elevation). The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from such walls, between such walls and a line ten (10) feet away from and paralleling such walls.

Gross acre. A horizontal measure of land area equal to forty-three thousand five hundred sixty (43,560) square feet.

Gross floor area. See floor area, gross.

Gross floor area, total. The sum of the gross horizontal areas of all floors below the roof and within the exterior faces of the exterior walls of principal and accessory buildings or the center lines of walls separating two (2) abutting buildings.

Ground cover. Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, and the like.

Handicap ramp. See pedestrian ramp.

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

Hedge. A row or rows of closely planted shrubs, bushes, etc., creating a vegetative barrier.

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 such 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 such sidewalk or ground surface is more than ten (10) feet above the lowest grade.

Heliport. An area of land, water or structural surface which is used, or intended for use, for the lawful landing and takeoff of helicopters, and any appurtenant areas which are used, or intended for use

for heliport buildings and auxiliary facilities, such as parking areas, waiting rooms, fueling, storage and maintenance equipment areas.

Helistop. An area of land, water or structural surface which is used, or intended for use, for the landing and takeoff of helicopters, without the provision of fueling, repair, maintenance or storage facilities.

Industrial park. See integrated center.

Integrated center. An area of development (commercial, industrial or any combination of commercial, industrial and residential uses) of one (1) or more lots, comprised of:

(1) A number of individual, unrelated and separately operated uses in one (1) building sharing common site facilities; or

(2) One (1) or more buildings containing unrelated and separately operated uses occupying a common site, which utilize one (1) or a combination of common site facilities, such as driveway entrances, parking areas, driving lanes, signs, maintenance and similar common services; or

(3) One (1) or more buildings containing unrelated and separately operated uses occupying individual sites, which are interrelated by the utilization of one (1) or a combination of common facilities, such as driveway entrances, public or private street network, parking areas, maintenance and other services.

Interior access drive. A minor, private street providing access within the boundaries of a project beginning at the required setback line (see Diagram B).

Interior access driveway. Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels (see Diagram B).

Laboratory, research. An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

Landscaping. Any combination of living plants, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained and groomed to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion and drainage control and wind protection.

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 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.

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

Loading area. A hardsurfaced off-street area maintained and intended for the maneuvering and temporary parking of vehicles while transferring goods or materials to and from a facility.

Loading space. A hardsurfaced off-street area used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

Local street. See street, local.

Lot. A tract of land designated by its owner(s) to be used or developed as a unit under single ownership or control. A lot may or may not coincide with a lot of record and may consist of:

(1) A single lot of record;

(2) A portion of a lot of record; or

(3) A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

For purposes of this definition, ownership includes:

(1) The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;

(2) A contract vendee;

(3) A long-term lessee (but only if the lease is recorded among the records of the county recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit) (see Diagram D).

Lot area. The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street, alley, or easement for surface access (ingress or egress) into the subject lot or adjoining lots.

Lot, corner. A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees (see Diagram D).

Lot, through. A lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot (see Diagram D).

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 of the primary structure shall be considered the front lot line, or so declared by the Administrator (see Diagram C).

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 line, any lot line which intersects with a front lot line shall not be considered a rear lot line (see Diagram C).

Lot line, side. Any lot line not designated as a front or rear lot line (see Diagram C).

Lot of record. A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the office of the Recorder of Marion County, Indiana.

Manufacture/manufacturing. Establishment engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

Marginal access street. See street, marginal access.

Mini-warehouses. A building or group of buildings containing one (1) or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds six hundred (600) square feet in area.

Motor truck terminal. A building or area in which trucks, including tractor or trailer units are parked, stored, or serviced, including the transfer, loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transshipment.

Mulch. A protective covering of organic substances placed around plants to control weeds and prevent evaporation of moisture or freezing. Plastic, loose gravel, stones or rocks shall not be considered as mulch.

Neighborhood recycling collection point. A site where collectors bring household recycling materials. Beyond any limited sorting, no other processing of the material takes place at the site. All materials are stored completely within the structure while awaiting periodic shipment to recycling stations or recycling facilities. While these collection points may be developed as freestanding sites, they typically are accessory uses sharing the site of a larger primary use. Possible structures for this type of

operation include such recycling containers as "igloos," reverse vending machines, trailers, or similar structures.

Off-street. A location completely within the boundaries of the lot, and completely off of public or private rights-of-way or alleys or any interior surface access easement for ingress and egress.

Outdoor storage. See storage, outdoor.

Parking area. An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space (see Diagram B).

Parking space. An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle (see Diagram B).

Pavement. A layer of concrete, asphalt or coated macadam used on street, parking area, sidewalk, or airport surfacing.

Pedestrian ramp. An inclined access opening along the curb line at which point pedestrians, unassisted or assisted by a wheelchair, walker or the like, may enter or leave the street; or an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or the like, access from the ground to an elevated surface.

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

Physically handicapped. An individual who has a physical impairment including impaired sensory, manual or speaking abilities, which results in a functional limitation in access to and use of a building or facility.

Plat. An officially recorded map, as recorded in the office of the Marion County Recorder, or a map intended to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

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

Processing. A series of operations, usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner.

Project. A lot or parcel of contiguous land to be developed for a use or uses which at the time of development is under one (1) ownership or control, and subsequently may be subdivided, developed, or conveyed into smaller lots or parcels.

Project boundaries. The perimeter lot lines encompassing an entire project.

Proposed right-of-way. See right-of-way, proposed.

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 the 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.

Public street frontage. See frontage, public street.

Rear yard. See yard, rear.

Recreation facility. A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.

Recycling container. Receptacle designed and intended for the collection of cleaned, sorted, solid household waste products, including, but not limited to, glass, plastic, metal and paper.

Recycling facility. A recycling operation, the process by which waste products of any type are reduced to raw materials and may further be transformed into new and often different materials.

Recycling station. A recycling operation involving further processing of household recycling materials (relative to a neighborhood recycling collection point) to improve the efficiency of subsequent hauling. Such a facility typically features sorting, the use of a crushing apparatus, and the storage of the material until it is shipped out. A recycling station does not include automotive or construction recycling.

Research laboratory. See laboratory, research.

Required yard. See yard, required.

Retail trade. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. The establishment typically buys goods for resale to the public.

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.

Right-of-way, private. Specific and particularly described strip of privately held land, property, or interest therein devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the office of the Marion County Recorder.

Right-of-way, proposed. Specific and particularly described land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially described in the Marion County Thoroughfare Plan as adopted and amended by the Metropolitan Development Commission.

Right-of-way, public. Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the office of the Marion County Recorder.

Roof line. The uppermost edge of the water-carrying surface of a building or structure.

Screening. A method of visually shielding or obscuring a nearby structure, building or use on an abutting or adjacent property or lot from another by fencing, walls, berms, or densely planted vegetation.

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

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 (see Diagram B).

Shrub. A woody plant of relatively low height (not exceeding ten (10) to twelve (12) feet in height), branching from the base.

Side yard. See yard, side.

Sidewalk. A hardsurfaced walk or raised path along and often paralleling the side of the street intended for pedestrian traffic.

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.

Site plan. The development 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 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, center lines of rights-of-way, dimensions.

Storage, outdoor. An outdoor area used for the long-term deposit (more than twenty-four (24) hours) of any goods, material, merchandise, vehicles or junk.

Storage area. An area designated, designed and intended for the purpose of reserving property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

Street, collector. A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets and arterials while allowing direct access to abutting property(ies) (see Diagram E).

Street, cul-de-sac. A street having only one (1) open end which is permanently terminated by a vehicle turnaround (see Diagram E).

Street, expressway. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street, freeway. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street, local. A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies) (see Diagram E).

Street, marginal access. A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies) (see Diagram E).

Street, parkway. A street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and the thoroughfare plan.

Street, primary arterial. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street, private. A privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and the like.

Street, public. A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and the like.

Street, secondary arterial. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

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.

Subdivision. The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development.

Temporary use. An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Thoroughfare. A street primarily serving through vehicular traffic, including freeways, expressways, primary arterials, and secondary arterials.

Thoroughfare plan. 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.

Through lot. See lot, through.

Total gross floor area. See gross floor area, total.

Transitional yard. See yard, transitional.

Trash container. Receptacle intended for the disposal, collection or temporary storage of unsorted waste products or refuse.

Trash enclosure. An accessory structure enclosed on at least three (3) sides; designed and intended to screen and protect waste receptacles from view, and to prevent waste debris from dispersing outside the receptacles or enclosure.

Tree survey. An inventory of all trees on a lot or project before construction, alteration or excavation activity occurs identifying species, location, caliper, and dripline of trees. In the case of large, dense tree stands (those exceeding six hundred (600) square feet in area and seventy-five (75) percent branch coverage of the ground surface), the location of the outer boundary of the tree stands' dripline with a listing of the predominant species and caliper is often substituted for a detailed inventory.

Unit. A single, complete entity.

Visibly obstructed. The view of an object which is blocked by a building or other man-made structure so as to be incapable of being seen from that line of sight.

Walkway. A hardsurfaced walk or raised path for pedestrian traffic.

Warehouse. A building used primarily for the storage of goods and materials.

Warehousing. Terminal facilities for handling freight with or without maintenance.

Wholesaling. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wrecker service. A service in which towing or emergency services are provided to disabled automotive vehicles.

Yard, front. An open space unobstructed to the sky, extending 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 (see Diagram C).

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 (see Diagram C).

Yard, required. That portion of any yard abutting a lot line having a minimum depth as area required by the particular zoning district in which it is located (see Diagram C).

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 (see Diagram C).

Yard, transitional required. That portion of any yard abutting a protected district having a minimum depth as required by the particular zoning district in which it is located and acting as a buffer between two (2) or more land uses of different intensity. A transitional yard is a required yard, provided in lieu of the minimum required front, side or rear yard specified for the district in which it is located when an above noted protected district abuts (see Diagram C).

SECTION 17. Section 734-305 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 734-305. On-premises signs; central business district signs (CBD-1, CBD-2, CBD-3 and CBD-S).

The following regulations shall pertain to on-premises business signs in all CBD districts where permitted by section 734-500, Table D, and this section. Off-premises (outdoor advertising) signs in the CBD districts also shall follow the regulations of section 734-306.

Any on-premises business sign erected on a building or lot located within a locally designated historic preservation area as established by, and under the jurisdiction of, the Indianapolis Historic Preservation Commission (IHPC) shall be exempt from the provisions of this section of this chapter. The type, number, area, height, illumination and location of such signs located within such historic preservation areas shall be as determined by the IHPC. The specific standards and requirements for on-premises business signs shall be as set forth in and specified by the grant of a ~~certificated~~ certificate of appropriateness following all procedures set forth by the IHPC.

(a) *Regulations for freestanding identification signs.*

(1) *Where permitted.*

a. *Pole or pylon signs:*

1. Shall be permitted only for surface parking lots in the CBD-1 and CBD-2 Districts.

2. Shall be permitted in the CBD-3 District only for surface parking lots. In no case, however, shall pole or pylon signs be permitted on the street frontage of any lot abutting American Legion Mall, Veterans Memorial Plaza, the Indiana War Memorial or University Park.

3. Shall be permitted in the CBD-S District.

b. *Ground signs* shall be permitted in all CBD districts.

(2) *Maximum sign height.*

a. *Pole or pylon signs:* The maximum height of a pole or pylon sign and its supporting structure shall not exceed twenty (20) feet above grade level at the base of such structure, subject to the provisions of section 734-304(g), grade mounding.

b. *Ground signs:* No part of the sign face or the sign support structure of a ground sign shall be more than four (4) feet above grade level, subject to the provisions of section 734-204(g), grade mounding.

(3) *Minimum setbacks, front.*

a. The minimum setback for freestanding identification pole or pylon signs shall be ten (10) feet from the existing street right-of-way line, provided, however, the provisions of subsection (a)(3)c. below shall also be met.

b. The maximum setback for freestanding identification ground signs shall be zero (0) feet from the existing street right-of-way line, provided, however, the provisions of subsection (a)(3)c. below shall also be met.

c. No freestanding identification sign shall be erected within any area designated by the Thoroughfare Plan for Marion County as required for right-of-way for a public street unless the owner of such sign provides a written commitment to the Department of Metropolitan Development to relocate such sign out of the right-of-way at his/her expense upon the acquisition of the property by the applicable governmental agency for transportation purposes and shall waive all claims to damages or compensation by reason of the existence or relocation of the sign.

(4) *Minimum setbacks, side and rear.* If illuminated, no freestanding identification sign facing the side or rear lot line of an abutting lot zoned as a dwelling district shall be located within fifty (50) feet of such side or rear lot line.

Exception: This provision shall not apply if it can be determined that:

a. A commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon adjoining property or abutting frontage property, although zoned as a dwelling district.

b. The illuminated sign is visibly obstructed from the dwelling district.

(5) *Maximum sign area.* The sign surface area of a freestanding identification sign shall not exceed one (1) square foot in sign surface area for each lineal foot of that lot's street frontage (to which the sign is oriented). In no case, however, shall the maximum sign surface area exceed one hundred (100) square feet.

(6) *Number of signs.* One (1) freestanding identification sign shall be allowed for each frontage on a separate street.

Exceptions:

a. *Extensive frontage.* Where a lot has in excess of three hundred (300) feet of street frontage on the same street, one (1) additional freestanding identification sign shall be allowed for each additional three hundred (300) feet of street frontage on that street. Such additional signs shall be subject to all other provisions of this chapter. In no event shall an additional freestanding identification sign, as permitted in this section, be located any closer than three hundred (300) feet to any other freestanding identification sign on the same lot (refer to Diagram 15).

b. *Corner lots.* On corner lots, the maximum number and square footage of freestanding identification signs shall be permitted for each street frontage. Such maximum allowances, however, shall not be transferable either in whole or in part from one (1) street to another.

(b) *Regulations for building identification signs.*

(1) *Lower level building identification signs.* Signs located on:

- the first twenty-six (26) feet of building height; or
- the actual building height, whichever is lesser (measured from grade), shall be considered lower level building identification signs and shall conform to the following regulations.

a. *Maximum size for lower level building identification signs.* The maximum sign surface area for lower level building identification signs shall not exceed twenty (20) percent of the facade as noted in the formula below:

Maximum permitted sign surface area = 20% (A X B)

A = twenty-six (26) feet or the height of the building, whichever is lesser.

B = width of the facade (measured in feet) on which the sign is to be placed.

(The application of this provision is illustrated in Diagram 17).

b. *Number of lower level building identification signs.* One (1) sign for each basement, grade level or second story occupant of the building shall be permitted.

Exception: Buildings in which a single tenant occupies the entire basement, grade level or second story leasable space, or a leasable space with two hundred (200) or more linear feet of street frontage, may have an additional lower level building identification sign on that street frontage only. Provided, the maximum sign surface area permitted for that facade, as noted in subsection (b)(1)a.1. above shall not be exceeded for the total number of lower level building identification signs.

c. *Location of lower level building identification signs.* Lower level wall signs shall be located only on facades which front on a street.

d. *Lower level building identification signs on corner lots or lots which have multiple street frontages.* On buildings having more than one (1) street frontage, the maximum allowable square footage of lower level building identification signs shall be permitted for each

building frontage. Such maximum allowance, however, is not transferable either in whole or in part from one (1) building to another nor from one (1) occupancy to another occupancy.

e. *Distance from side or rear lot line when abutting a dwelling district.* If illuminated, no building identification sign facing the side or rear lot line of an abutting lot zoned as a dwelling district shall be located within fifty (50) feet of such side or rear lot line.

Exception: This provision shall not apply if it can be determined that:

1. A commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon adjoining property or abutting frontage property, although zoned as a dwelling district; or

2. The illuminated sign is visibly obstructed from the dwelling district.

(2) *Upper level building identification signs.* Signs located on a building facade above twenty-six (26) feet in height, measured from grade, shall be considered upper level building identification signs and shall conform to the following regulations:

a. *Placement.* Upper level building identification signs shall be located on a façade above a height of twenty-six (26) feet, measured from the grade level.

b. *Maximum size for upper level building identification signs.* The maximum sign surface area for upper level building identification signs shall not exceed ten (10) percent of the facade as noted in the formula below:

Maximum permitted sign surface area = 10% (A X B)

A = height of building (measured from grade, in feet). This figure shall be reduced by subtracting the first twenty-six (26) feet in height of the building, measured from grade level.

B = width of the facade (measured in feet) on which the sign is to be placed.

(The application of this provision is illustrated in Diagram 17).

c. *Number of upper level building identification signs.* One (1) sign for each facade of the building shall be permitted, provided the maximum sign surface area permitted for that facade, as noted in subsection (b)(1)a.1. above is not exceeded. These signs may identify either the name of the building or a tenant of that building.

d. *Location of upper level building identification signs.* Upper level building identification signs shall be located on any facade or architectural elevation of the building. Provided, however, that on buildings having upper level building identification signs on more than one (1) facade, the maximum allowance for a facade is not transferable either in whole or in part from one (1) building to another nor from one (1) occupancy to another occupancy.

(3) *Wall signs.* Wall signs shall be of individual letter construction in the CBD-1 and CBD-3 Districts. Where construction materials/methods of buildings would pose practical difficulties for the erection of individual letter wall signs, raceways can be used on which the individual letters can be mounted.

(4) *Roof signs.* Roof signs shall not be permitted in any CBD district.

Exception: Signs that are painted on, or otherwise attached flat and directly to, the roof structure, and which do not extend vertically from the roof structure, shall be permitted on public buildings (those buildings owned, operated, controlled or under some jurisdiction of a unit of federal, state or local government). Signs permitted under this exception shall be regulated as upper level business signs for purposes of sign surface area and number.

(5) *Roof-integral signs.*

a. *Where permitted.* Roof integral signs shall be permitted in the CBD-2, CBD-3 and CBD-S Districts.

b. *Maximum sign area.* Same as section 734-303(b)(1).

c. *Number of signs.* One (1) roof-integral sign shall be permitted per each building facade (if a single use) or tenant space (if an integrated center), subject to the provisions of section 734-303(b)(1)b.

d. *Distance from side or rear lot line when abutting a dwelling district.* An illuminated roof-integral sign shall not be permitted within fifty (50) feet of a side or rear lot line of an abutting lot line zoned as a dwelling district when such sign faces such side or rear lot line.

Exception: This provision shall not apply if it can be determined that:

1. A commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon adjoining property or abutting frontage property, although zoned as dwelling district.

2. The illuminated roof-integral sign is visibly obstructed from the dwelling district.

(6) *Projecting signs.*

a. *Where permitted.* Projecting signs shall be permitted in any CBD district, except in the CBD-1 District on lots which front Monument Circle. Projecting signs shall be permitted as lower level signs only for basement, grade level or second story occupants of the building.

b. *Maximum sign area.* The sign surface area of a projecting sign shall not exceed twenty-four (24) square feet.

c. *Number of signs and placement.* One (1) projecting sign shall be permitted per tenant space, to be placed on the building facade from which the tenant gains direct access into their business.

d. *Maximum projection from a building and minimum front setback.*

1. No projecting sign or sign structure shall extend more than eight (8) feet from or beyond its supporting building.

Exception: A projecting sign or sign structure shall not extend more than three (3) feet from or beyond its supporting building when such sign or structure is located on and oriented toward East or West Market Street between Capitol Avenue and Alabama Street.

2. The horizontal projection of any projecting sign may extend to a point not closer than two (2) feet from an imaginary perpendicular vertical plane at the street pavement line, curb or outside edge of the sidewalk. Refer to Diagram 11 for illustrative guides to these provisions.

e. *Clearance from grade.* All portions of a projecting sign or sign structure shall be not less than eight (8) feet above the finished grade.

(7) *Awning or canopy signs.* Awning or canopy signs shall be permitted in any CBD district subject to the regulations of section 734-400, awning and canopy sign regulations.

Exception: An awning or canopy sign or sign structure shall not extend more than three (3) feet from or beyond its supporting building when such sign or structure is located on and oriented toward East or West Market Street between Capitol Avenue and Alabama Street.

(8) *Marquee signs.* Marquee signs shall be permitted in any CBD district subject to the regulations of section 734-401, marquee sign regulations.

Exception: A marquee sign or sign structure shall not extend more than three (3) feet from or beyond its supporting building when such sign or structure is located on and oriented toward East or West Market Street between Capitol Avenue and Alabama Street.

(9) *Suspended signs.*

a. *Where permitted.* Suspended signs shall be permitted in any CBD district.

b. *Maximum sign area.* The maximum sign surface area for a suspended sign shall not exceed five (5) square feet.

c. *Number of signs.* One (1) suspended sign shall be permitted per each building façade (if a single use) or grade level tenant space (if an integrated center).

d. *Clearance from grade.* All portions of any suspended sign or sign structure shall be not less than eight (8) feet above the finished grade.

Refer to Diagram 13 for illustrative guides to these provisions.

(c) *Regulations for incidental signs.* Incidental signs shall be permitted in any CBD district subject to the regulations of section 734-303(c), incidental signs.

(d) *Window signs.*

(1) *Where permitted.* Window signs shall be permitted in any CBD District.

(2) *Maximum sign area.* The sign copy area of window signs shall not exceed twenty (20) percent of the window surface area on which it is placed or through which it is viewed, however, in no case shall the sign copy area exceed 100 square feet.

The sign surface area of window signs shall be calculated separately from the calculation of other signs and shall not be included in the total area of other signs permitted.

The Administrator, upon request by the applicant, shall have the power to modify the requirements of this provision 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. Such modification shall be noted on the alternative plan, stamped approved by the Administrator and become a part of the requirements for the Improvement Location Permit. Under no circumstances, however, shall the Administrator modify the content of a sign.

(e) *Special regulations for promotional banners.* Temporary promotional banners, located on permanent banner poles or on street light standards structurally modified to accommodate banners, erected by or sanctioned by the City of Indianapolis, shall be permitted in the CBD-1, CBD-2, CBD-3 and CBD-S Districts. Only such banners promoting community activities, cultural or sports programs important to the city's image or economy; or not-for-profit organizations serving the community shall be permitted under this provision. Individual promotional banners may be displayed for a maximum of thirty (30) days. Banners shall not exceed thirty (30) inches wide and eighty-five (85) inches long. A banner program, indicating location of permanent banner poles or street light standards and size of promotional banners to be displayed, shall be submitted for regional center review and approval. The banner program shall also be submitted to the ~~Department of Capital Asset Management~~ division of compliance for its review and approval, if banner poles are proposed to be located within the public right-of-way. Once a banner program has been approved, individual temporary banners shall not require additional approval. Any changes to the banner program, however, shall require the appropriate agency review and approval. An ILP shall not be required if the provisions noted above are satisfied.

SECTION 18. Section 734-501 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 734-501. Construction of language and definitions.

(a) *Construction of language.* The language of this chapter 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 chapter 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.* The words in the text or illustrations of this chapter shall be interpreted in accordance with the definitions set forth below. 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.

A-Sign. A portable sign containing two (2) sign faces and whose framing is hinged at the apex at an angle less than forty-five (45) degrees (refer to Diagram 30).

Abandoned sign. Any sign or its supporting sign structure which remains without a message or whose display surface remains blank for a period of: a. one (1) year or more (for a sign or its supporting sign structure which conforms to this chapter at the time of adoption); or b. sixty (60) days (for a sign or its supporting sign structure which does not conform to the provisions of this chapter at the time of adoption); or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned.

Administrator. Administrator of the ~~neighborhood and development services~~ division of planning of the department of metropolitan development, or such division having jurisdiction, or their appointed representative.

Advertising sign. Any off-premises sign which directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. Also known as an outdoor advertising sign.

Alley. Any 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 such lot.

Animated sign. Any sign which includes movement or change of lighting to depict action or create motion, a special effect or a scene. For purposes of this chapter, any changeable copy sign on which the message changes more than eight (8) times per day shall be considered an animated sign.

Awning. A roof-like cover, often of fabric, metal, plastic, fiberglass or glass, designed and intended for protection from the weather or as a decorative embellishment, and which is supported by and projects from a wall or roof of a structure over a window, walk, door, or the like.

Awning sign. A building sign or graphic printed on or in some fashion attached directly to the awning material.

Balloon sign. A temporary sign consisting of a bag made of light-weight material which is filled with a gas lighter than air and designed to rise or float in the atmosphere (refer to Diagram 30).

Banner. Any temporary sign of light-weight fabric or similar material mounted to a pole or a building at one (1) or more edges by a permanent frame. Flags of any government or political subdivision shall not be considered banners (refer to Diagram 30).

Beacon. Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source. Also, any light with one (1) or more beams that rotate or move.

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 identification sign. Any identification sign attached to any part of a building.

Building marker. Any building identification sign indicating the name of a building, the date of erection and incidental information about its construction and which is cut into a masonry surface or made of bronze or other permanent material.

Business sign. See identification sign.

Canopy. A roof-like cover, often of fabric, metal, plastic, fiberglass or glass, on a support which is supported in total or in part from the ground, providing shelter over, for example, a doorway, outside walk or parking area.

Canopy sign. Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door, entrance, or window. A canopy sign is not a marquee and is different from service area canopy signs.

Center line of the highway. A line equidistant from the edges of the existing right-of-way separating the main-traveled ways of a divided interstate highway, freeway, expressway, or the center line of the main-traveled way of a nondivided interstate highway, freeway or expressway.

Changeable copy sign. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged electronically or nonelectronically without altering the face or the surface of the sign. The message copy of a changeable copy sign can be changed manually in the field, through the use of changeable letters, numbers, symbols and similar characters, changeable pictorial panels or through the use of rotating panels and other similar devices which are not controlled through remote electronic or electric techniques. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for purposes of this chapter.

Clearance. The distance measured from the bottom of a sign face which is elevated above grade and the grade below (refer to Diagram 33).

Collector street. See street, collector.

Commercial message. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Construction sign. Any temporary sign which identifies and announces the construction activity on the property by the owner or construction company.

Convenience market. A retail establishment selling a limited number of food items, such as sandwiches, snacks, staple groceries, lottery tickets, household items, and food items prepared on the premises, including reheating, which can be immediately consumed. Such establishments may also provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers of the establishment on a self-service basis.

Corner lot. See lot, corner.

Directional sign. Any incidental sign which serves solely to designate the location or direction of any place or area and, as such, shall be located on the same lot as such place or area.

Directory signs. Any incidental sign which identifies the businesses in an integrated center, in whole or in part, usually with a listing or a graphic representation of some or all of the tenants in the center, and is located in the interior of such center.

Double-faced sign. A sign consisting of two (2) parallel faces supported by a single structure.

Driveway. Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line (refer to Diagram 34).

Electronic variable message sign (EVMS). A sign, or component of a sign, such as an electrically or electronically controlled message center, where the characters, letters, or illustrations can be changed or rearranged either in the field, or from a remote location, without physically altering the face or the surface of the sign.

Entrance roadway. Any public street or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of an interstate highway, freeway or expressway from the general street system within Marion County, irrespective of whether traffic may also leave the main-traveled way by such street or turning roadway.

Erect. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

Exit roadway. Any public street or turning roadway, including deceleration lanes, by which traffic may leave the main-traveled way of an interstate highway, freeway or expressway to reach the general street system within Marion County, irrespective of whether traffic may also enter the main-traveled way by such street or turning roadway.

Extension. Any vertical or horizontal embellishments to an advertising sign designed as a part of, and integrally incorporated into, the announcement, declaration, device, demonstration or insignia used as a part of such sign (refer to Diagram 35).

Flag. Any fabric or similar light-weight material attached at one (1) end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices used to represent a government or political subdivision.

Flashing sign. A directly or indirectly illuminated sign which exhibits changing light, color or effect by any means, so as to provide intermittent illumination, or which includes the illusion of intermittent or flashing light by means of animation.

Freestanding sign. Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

Freeway. See street, freeway.

Frontage. The line of contact of a property with the street right-of-way along a lot line. In the case of a corner lot having a rounded or cut property corner, from the intersection of the street right-of-way lines, as extended.

Garage sale sign. Any temporary sign which identifies and announces a garage, yard or similar sale.

Gasoline service station. Any building, land area or other premises or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; which may include as an accessory use minor automotive repairs; the sale and installation of lubricants, tires, batteries; car washes; and similar accessory uses. Such establishments shall provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers or employees.

Governmental sign. Signs designed for control of, or to provide information to, traffic and other regulatory functions and signs of public service companies indicating danger and aids for service or safety which are erected by the order of a public officer in the performance of his/her public duty (see also public signs).

Grade. Grade shall be construed to be the lower of (1) existing grade prior to construction or (2) existing grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign (refer to Diagram 4).

Grade level use. Each use or occupant of what is typically known as the street, ground or first floor of a building.

Ground sign. Any freestanding sign constructed in or on the ground surface with its sign face extending downward to or near the ground surface and which is supported on a frame by one (1) or more uprights or braces (refer to Diagram 31).

Height, sign. The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

Home improvement sign. Any temporary sign which identifies and announces the construction company responsible for the home improvement of the property.

House number and name plates. Any sign which designates the name or the street address, using numbers or plates, of the person(s) occupying the premises.

Identification sign. Any sign which is limited to the name, address and number of a building, institution or person and to the activity carried on in the building or institution, or the occupancy of the person.

Illuminated sign. Any sign which contains an auxiliary design element designed to emanate artificial light internally or externally from the sign, including signs illuminated from the exterior by spotlights or other lighting apparatus directed upon the sign structure either from the ground or from a lighting fixture attached to the exterior of the sign structure.

Incidental sign. A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone" and other similar directives. No sign with a commercial message legible from any position of the lot on which the sign is located shall be considered incidental.

Information site. An area or site established and maintained within or adjacent to the right-of-way of a highway on the interstate system by or under the supervision or control of a state highway department, wherein panels for the display of advertising and information signs may be erected and maintained.

Interior sign. Any sign not visible from the exterior of the building or structure and located within the interior of any building or structure, or within an enclosed lobby or court of any building.

Integrated center. An area of development (commercial, industrial, or any combination of commercial, industrial and residential uses) of one (1) or more lots, comprised of:

(1) Two (2) or more individual, unrelated and separately operated uses in one (1) building sharing common site facilities; or

(2) One (1) or more buildings containing unrelated and separately operated uses occupying a common site, which utilize one (1) or a combination of common site facilities, such as driveway entrances, parking areas, driving lanes, signs, maintenance and similar common services; or

(3) One (1) or more buildings containing unrelated and separately operated uses occupying individual sites, which are interrelated by the utilization of one (1) or a combination of common facilities, such as driveway entrances, public or private street network, parking areas, maintenance and other services.

Interstate highway. See street, freeway.

Legally established nonconforming sign. Any sign and its support structure lawfully erected prior to the effective date of the adoption of this chapter which fails to conform to the requirements of this chapter. A sign which was erected in accordance with a variance granted prior to the adoption of this chapter and which does not comply with this chapter shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

Legible. Capable of being read with certainty without visual aid by a person of normal visual acuity.

Logo. See trade name.

Lot. A tract of land designated by its owner(s) to be used or developed as a unit under single ownership or control. A lot may or may not coincide with a lot of record and may consist of:

(1) A single lot of record;

(2) A portion of a lot of record; or

(3) A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

For purpose of this definition, ownership includes:

(1) The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;

(2) A contract vendee;

(3) A long-term lessee (but only if the lease has been recorded at the office of the county recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit) (refer to Diagram 36).

Lot area. The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street, alley or easement for surface access (ingress or egress) into the subject lot or adjoining lots.

Lot, corner. A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees (refer to Diagram 36).

Lot, through. A lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot.

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 of 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 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 line, 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.

Lot of record. A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the office of the Recorder of Marion County, Indiana.

Maintain. To repair, service or refurbish a sign or structure or any part thereof, in an identical manner or change any identical component of the sign.

Main-traveled way. The traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. The term "main-traveled way" does not include such facilities as frontage roads, turning roadways or parking areas.

Marginal access street. See street, marginal access.

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

Marquee sign. Any building sign painted, mounted, constructed or attached in any manner on a marquee (refer to Diagram 24).

Message center. A sign, component of a sign, which contains a changing message within the copy area which turns on and off or changes electrically or electronically for a specific period of time.

Model home sign. Any temporary sign which identifies and announces a model home.

Mural. A design or representation painted, drawn or similarly applied on the exterior surface of a structure and which does not advertise a business, product, service or activity.

Noncommercial opinion sign. A sign which does not advertise products, goods, businesses, or services and which expresses an opinion or other point of view. A sign which meets the definition of an on-premise sign, an off-premise sign, and/or an advertising sign, shall not be considered a noncommercial opinion sign.

Off-premises sign. A sign which directs attention to a business, profession, commodity, or service offered on the property other than that on which the sign is located.

On-premises sign. A sign which directs attention to a business, profession, commodity, or service offered on the property on which the sign is located.

Outdoor advertising sign. Same as advertising sign.

Owner. Legal owner of property as officially recorded in the office of the Marion County Recorder.

Parapet (wall). That portion of a building wall that rises above the roof level.

Pennant. Any sign of light-weight plastic, fabric, or other similar material, whether or not containing a message of any kind, which is suspended from a rope, wire, or string, usually in a series, and which is designed to move in the wind. Flags of any government or political subdivision shall not be considered pennants (refer to Diagram 30).

Permanent sign. A nontemporary sign designed and intended for long-term use.

Plaque, historic. See building marker.

Pole sign. Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level (refer to Diagram 31).

Political sign. Any temporary sign designed to announce or identify a person, party, issue of an election or any other subject usually associated with a political election.

Portable sign. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported from place to place, including, but not limited to, signs transported by means of wheels; signs attached to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless such vehicle is used in the normal day-to-day operation of the business.

Principal building. The building in which is conducted the principal primary use of the lot. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other uses clearly accessory to the primary use shall not be considered principal buildings.

Projecting sign. Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than eighteen (18) inches beyond the surface of such building or wall face (refer to Diagram 31).

Project sign (residential). A type of identification sign designed to identify a residential development permitted in the D-6, D-6II, D-7, D-8, D-9, D-10, D-11 or D-P dwelling districts.

Protected areas. All areas inside the boundaries of Marion County which are adjacent to and within six hundred sixty (660) feet of the edge of the right-of-way of all highways within the county. When a highway terminates at a county boundary which is not perpendicular or normal to the center line of the highway, the term "protected areas" also refers to all areas inside the boundary of such county which are within six hundred sixty (660) feet of the edge of the right-of-way of the highway in the adjoining county.

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, park district, university quarter district, SU-1 (church) district or SU-2 (school) district.

Public notice. Official notice posted by public officers or their representative in the performance of their duties.

Public signs. Any sign required or specifically authorized for a public purpose by any law, statute or ordinance which may be of any type, number, area, height above grade, location, illumination or animation, required by the law, statute or ordinance under which the signs are erected (see also governmental sign).

Public way. Any public street, alley, sidewalk or other public thoroughfare.

Pump island sign. Any sign either affixed directly to a gasoline pump or otherwise attached to the pump or pump island (refer to Diagram 25).

Pylon sign. Any freestanding sign anchored in the ground with its sign face extending upward from the ground surface and which has a height exceeding four (4) feet (refer to Diagram 31).

Real estate sign. Any temporary sign which announces the sale, rental, or lease of property by the owner or real estate company.

Residential sign. Any sign located in a district zoned for residential uses that contains no commercial messages except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.

Right-of-way. Specific and particularly described 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.

Right-of-way, private. Specific and particularly described strip of privately held land, property, or interest therein devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the office of the Marion County Recorder.

Right-of-way, proposed. Specific and particularly described land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially described in the Marion County Thoroughfare Plan as adopted and amended by the Metropolitan Development Commission.

Right-of-way, public. Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the office of the Marion County Recorder.

Roof. The water-carrying surface of a building or structure, the structural makeup of which conforms to the roof structures, roof construction and roof covering sections of the Uniform Building Code.

Roof-integral sign. Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the roof (refer to Diagrams 10 and 31).

Roof line. The uppermost edge of the water-carrying surface of a building or structure.

Roof sign. Any building sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the roof (refer to Diagram 31).

Rotating sign. Any sign or portion of a sign designed to revolve or move in a similar manner by means of electrical power.

Scenic area. An area of particular scenic interest or historical significance which is designated by or pursuant to local or state law as a scenic area.

Seasonal or holiday display. Any temporary display, such as Christmas decorations, used for a holiday and installed for a short, limited period of time.

Service area canopy. Any structural protective cover that is not enclosed on any of its four (4) sides and is provided for the service area designated for the dispensing or installation of gasoline, oil, antifreeze, headlights, wiper blades and other similar products and the performance of minor services for customers as related to such dispensing or installation.

Service area canopy sign. Any sign that is part of or attached to the service area canopy.

Service station, gasoline. See gasoline service station.

Setback. The minimum horizontal distance established by ordinance between a street right-of-way line or a lot line and the setback line (refer to Diagram 37).

Setback line. A line that establishes the minimum distance that a building, structure, sign, or portion thereof, can be located from a lot line or proposed right-of-way line (refer to Diagram 37).

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 area. The area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face). Sign area shall be computed by using the smallest square, rectangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself (refer to Diagrams 1 and 2).

Sign encroachment. The placement of any sign or sign support structure or the extension of any part of a sign or sign structure into a required yard, street right-of-way or alley right-of-way.

Sign face. The surface of the sign upon, against, or through which the message of the sign is exhibited.

Sign structure. Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Sign type. A functional description of the use of an individual sign. Includes but is not limited to identification, incidental, residential and advertising.

Spandrel. A roof-like structure that covers the gasoline pump dispenser, serves as a second-tier canopy, is a lighting source for the dispensing area, serves to identify the gasoline pumps by numerical designation, and may display signage.

Spandrel sign. Any sign that is a part of or attached to the spandrel structure.

Street, collector. A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets and arterials with direct access to abutting property(ies).

Street, cul-de-sac. A street having only one (1) open end which is permanently terminated by a vehicle turnaround.

Street, expressway. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street facade. Any separate external face of a building, including parapet walls and omitted wall lines, oriented to and facing a public or private street. Separate faces oriented in the same direction or within forty-five (45) degrees of one another are considered part of the same street facade.

Street, freeway. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street, local. A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies).

Street, marginal access. A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies).

Street, parkway. A street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and thoroughfare plan.

Street, primary arterial. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

Street, private. A privately held right-of-way, with the exception of alleys, essentially open to the sky and open for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and the like.

Street, public. A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and the like.

Street, secondary arterial. A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

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.

Subdivision. The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development.

Subdivision sign. A type of identification sign designed to identify a residential subdivision.

Suspended sign. Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface (refer to Diagrams 13 and 32).

Symbols or insignias. Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies.

T-sign. A portable sign utilizing an inverted "T" style of framing structure to support the sign (refer to Diagram 30).

Temporary sign. Any sign or sign structure which is not permanently affixed or installed, and is intended to be displayed for a limited period only. Examples of such signs include, but are not limited to, the following: real estate, construction, special event, political, garage sale, home improvement/remodeling, model home and seasonal (holiday) signs.

Thoroughfare. A street primarily serving through vehicular traffic, including freeways, expressways, primary arterials, and secondary arterials.

Thoroughfare plan. 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.

Time and temperature displays. A limited function display which, through analogical or digital methods, electronically presents the time of day or the current temperature or one (1) other piece of information such as the Dow Jones average (either accrued total or change) in a nontraveling mode of operation. Displays which, through their configuration, are capable of presenting other electronic messages shall be considered electronic variable message signs.

Tombstone. Any cemetery marker or grave indicator.

Trade name. Any brand name, trademark, logo, distinctive symbol, or other similar device or thing used to identify a particular business, institution, activity, place, person, product or service.

Traveled way. The portion of a roadway for the movement of vehicles, exclusive of shoulders.

Turning. A connecting roadway for traffic turning between two (2) intersecting legs of an interchange, between two (2) interstate highways.

Valance. A vertically hanging or suspended fringe on an awning or canopy, often used as a decorative element.

Visible. Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

Visibly obstructed. The view of a sign which is blocked by a building or other man-made structure so as to be incapable of being seen from that line of sight.

Wall. Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.

Wall sign. Any building sign attached parallel to, but within eighteen (18) inches of, a wall, painted on the wall surface of, or erected on an outside wall of any building or structure, which is supported by such wall or building with no more than fifty (50) percent of the sign structure extending above the wall, to a maximum extension of four (4) feet, and which displays only one (1) sign surface (refer to Diagram 32).

Wind sign. A sign of light-weight fabric or similar material attached at one (1) end to a pole or similar apparatus so as to swing freely, inflate and flutter by movement of the wind (refer to Diagram 30).

Window sign. Any sign that is placed: 1) inside of, and within two (2) feet of, a window; or 2) upon the window panes or glass, and is visible from the exterior of the window (refer to Diagram 32).

SECTION 19. Section 735-101 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

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 ~~Transportation (IDOT)~~ Public Works (DPW) Standards for Street and Bridge Design and Construction. In the event ~~DOT~~ 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 ~~neighborhood and development services~~ 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.

SECTION 20. Section 735-104 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

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 ~~Neighborhood and Development Services~~ 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.

SECTION 21. Sections 735-202 through 735-205 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

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 ~~neighborhood and development services~~ 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 (1) (as defined in section 735-207) shall be applied to all lots within the CBD-1 District abutting:

(a) New York Street

(b) Ohio Street

(c) Market Street

(d) Washington Street

(e) Maryland Street

(f) Capitol Avenue

(g) Illinois Street

(h) Meridian Street

(i) Pennsylvania Street

(j) Delaware Street

(k) Indiana Street

(l) Massachusetts Avenue

(m) Kentucky Avenue

(n) Virginia Avenue

Provided, however, the Sky Exposure Plan Three (3) (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 ~~Neighborhood and Development Services~~ 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.

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 ~~neighborhood and development services~~ 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 (2) (as defined in section 735-207) shall be applied to all lots within the CBD-2 District. Except, however, the Sky Exposure Plane One (1) (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.

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

Bar*, cabaret*, night club*

Barber shop

Beauty shop

Book store

Cleaners and laundry outlet

Delicatessen

Drug store

Florist

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 ~~neighborhood and development services~~ 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.

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 ~~Neighborhood and Development Services~~ 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.

SECTION 22. Chapter 735, Article III, of the "Revised Code of the Consolidated City and County," regarding flood control zoning, hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

ARTICLE III. FLOOD CONTROL

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:

Flood Control Zoning Districts	*Zoning District Symbols*
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 which 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 which 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 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 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 ~~DCAM~~ DMD 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 ~~DCAM~~ DMD 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 ~~ordinance~~ 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, ~~DCAM~~ DMD 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 ~~DCAM~~ DMD 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.

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 which changes the hydraulic or hydrologic characteristics of the watercourse; availability of better topographic base mapping which 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 which specifies such changes.

(c) ~~DCAM~~ DMD 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, ~~DCAM~~ DMD 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 which requires continual operation and maintenance as a condition of the issuance of the LOMR or LOMA by FEMA, ~~DCAM~~ DMD may require the applicant to enter into an agreement with ~~DCAM~~ DMD to provide such operation and maintenance.

(d) Any changes in the floodway district boundary must be reported to FEMA by the applicant within six (60 months of construction with a copy forwarded to ~~DCAM~~ DMD. ~~DCAM~~ DMD 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 ~~ordinance~~ article).

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 ~~DCAM~~ DMD. The application shall be accompanied by drawings of the site drawn to scale which depict the proposed activity in a manner adequate for ~~DCAM~~ DMD 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 DMD 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) ~~DCAM~~ DMD 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. ~~DCAM~~ DMD shall supply each applicant for a floodplain development permit with a blank NFIP elevation certificate during the ~~DCAM's~~ DMD's 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 ~~DCAM~~ DMD within ten (10) calendar days after completion of construction of the lowest floor grade, and before DMD completes the final site inspection.

~~DCAM~~ DMD 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. ~~DCAM~~ DMD shall supply each applicant for a floodplain development permit with a blank floodproofing certificate during the ~~DCAM's~~ DMD'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 ~~DCAM~~ DMD within ten (10) calendar days after completion of construction of the structural floodproofing and before DMD completes the final site inspection.

DMD 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 ~~DCAM~~ DMD. 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 DMD, revocation of the floodplain development permit by DMD, or both.

(7) ~~DCAM~~ DMD 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 ~~DCAM~~ DMD that is required by FEMA.

(8) The Metropolitan Development Commission hereby delegates authority to ~~DCAM~~ DMD 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 permit division 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 which 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 ~~permits~~ division of compliance to a person, partnership or corporation which 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 ~~permits~~ division of compliance. 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 ~~permits~~ division of compliance 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 ~~DCAM~~ DMD.

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, ~~DCAM~~ DMD may, for good cause shown in writing, extend the validity of any such permit for an additional period which 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, ~~DCAM~~ DMD may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances to allow reinitiation of construction activity.

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 which 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 which 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, ~~DCAM~~ DMD may first require the owner to record a statement, in a form approved by ~~DCAM~~ DMD, 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 which 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 which 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 ~~DCAM~~ DMD;

(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 ~~DCAM~~ DMD, 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.

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), ~~and~~ (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 which 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 which 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 which 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 ~~DCAM~~ DMD.

(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 which is dangerous or would become dangerous if mixed with water; and

f. As a condition to allowing a detached residential accessory structure, the ~~DCAM~~ DMD may require the owner to record a statement, in a form approved by ~~DCAM~~ DMD, 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 ~~DCAM~~ DMD shall require the owner to record a statement, in a form approved by ~~DCAM~~ DMD, 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 which 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 which 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.

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 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) ~~DCAM~~ DMD 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.

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

(a) ~~DCAM~~ DMD shall review all applications for a floodplain development permit for all sites which have been identified by DMD ~~or DCAM~~ as lying in a flood control district. ~~DCAM~~ DMD 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, ~~DCAM~~ DMD 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 ~~DCAM~~ DMD 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 ~~DCAM~~ DMD 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 ~~DCAM~~ DMD may approve the application upon compliance with the applicable requirements of this article.

(d) In both floodway (FW) and floodway fringe (FF) districts, ~~DCAM~~ DMD will require such modifications to the design and materials of the proposed activity as ~~DCAM~~ DMD may deem appropriate under this article.

(e) In reviewing applications for floodplain development permits for compliance with the requirements of this article, ~~DCAM, in conjunction with~~ DMD, 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) ~~DCAM~~ DMD will maintain a file of all floodplain development permits issued in a flood control district.

(2) ~~DCAM~~ DMD will make these floodplain development permits available to representatives of FEMA, IDNR and other interested parties.

(g) NFIP elevation certificates.

(1) ~~DCAM~~ DMD 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) ~~DCAM~~ DMD 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) ~~DCAM~~ 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 ~~DCAM~~ DMD and FEMA.

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

~~DCAM~~ DMD, 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.

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.

Sec. 735-309. Violations.

(a) Construction or development authorized by the floodplain development permit shall proceed according to the requirements of this ~~ordinance~~ 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 ~~ordinance~~ article. If ~~DCAM~~ DMD determines that construction or development is proceeding or has proceeded in violation of this ~~ordinance~~ 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, ~~DCAM~~ DMD 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. ~~DCAM~~ DMD 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.

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

(a) *Construction of language.* The language of this ~~ordinance~~ 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 ~~ordinance~~ 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 ~~ordinance~~ 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 which satisfies all requirements for such a structure as set forth in this article.

Base flood. That flood having a peak discharge which 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 which 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 ~~DCAM~~ DMD 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.

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 which is subordinate to and located no less than six (6) feet from the primary residential structure and which 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.

~~*DCAM.* The Department of Capital Asset Management of the City of Indianapolis.~~

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 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) which 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 which 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 which 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 which 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 which 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 which 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 which 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 which 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 which 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 which 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 which 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 ~~DCAM~~ DMD. 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 which 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 is 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 which 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 ~~DCAM~~ DMD 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 which 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 which have been identified by the local code enforcement official and which 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 which 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 which 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 which 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 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 which 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 which have been identified by the local code enforcement official and which 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 which 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.

SECTION 23. Section 735-600 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

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 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:

All uses of land 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:

-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.

-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.

(1) *Requirements of Metropolitan Development Commission approval.*

a. *Existing uses.* All existing uses, except those uses identified in the amortization section (subsection (a)(2)d.), lawfully in existence on the date of adoption of this article shall be exempt from the provisions of this article, however the alteration, modification, enlargement or improvement to any existing use, or the change in use within an existing structure, which requires an Improvement Location Permit shall also require the Metropolitan Development Commission approval.

b. New uses. No new use, building, improvement, or structure shall be established after the effective date of this article until the proposed use, site and development plan have been filed with and approved by the Metropolitan Development Commission.

c. Filing the site and development plan. All new uses and changes to existing uses shall file a request for approval of the proposed changes.

Upon the filing of such approval request, the Administrator of the Division of Planning ~~and Zoning~~ 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, the proposed use, site and development plan. Public and individual notice of such filing and action by the Administrator shall not be required.

The action of the Administrator upon such approval request shall be subject to the filing of an appeal, within ten (10) days, by any aggrieved person to the Metropolitan Development Commission.

The Metropolitan Development Commission may consider and act upon such appeal of the action of the Administrator at any public meeting of the Commission and shall either approve, disapprove, or approve the use, site and development plan subject to any conditions, amendments, commitments, or covenants by the petitioner. The petitioner or appellant, if on appeal, shall have the right to be heard.

Provided, however, rezoning of any land within the Regional Center or North Meridian Corridor from the primary zoning district classification applicable thereto to any other zoning district classification shall require notice as provided by statute and the rules of procedure of the Metropolitan Development Commission.

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

a. The required site and development plan, drawn to scale, including building and structural plans, shall indicate, where applicable:

1. Existing uses, buildings and structures, noting those to remain and including a description of construction materials and exterior colors.

2. Proposed buildings and structures, including a description of materials and colors.

3. Elevation drawings of proposed buildings and structures.

4. Off-street parking design and internal traffic pattern.

5. Vehicular entrances, exits, and turnoff lanes.

6. Building setbacks.

7. Landscaping plan showing names, sizes at planting, spacing, and quantity of materials.

8. Screens, walls, fences, including a description of materials and colors.

9. Signs, including location, size, elevation, color and design thereof.

10. Utilities, if aboveground facilities are needed.

11. Pedestrian ways below, at, or above grade.

12. All other requirements of section 730-300(b) of this Code.

b. Details of such a development, including use, 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:

1. Be in conformity with the Regional Center Plan for Indianapolis, Marion County, Indiana, and the North Meridian Street Corridor Development Plan, adopted by the Metropolitan Development Commission's Resolution 82-CPS-R-4, April 15, 1982, 82-CPS-R-1, January 6, 1982; and

2. Create a superior land development plan, in conformity with the Comprehensive Plan for Marion County, Indiana;

3. 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;

4. Provide adequate access, parking and loading areas;

5. Provide adequate on-site vehicular circulation integrated with traffic control and existing and planned public streets in the vicinity;

6. Provide adequately for sanitation, drainage and public utilities;

7. 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;

8. 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;

9. Be compatible in construction material, scale, color and pattern with the existing environment.

c. Uses and structures within the North Meridian Street Corridor shall further be in accordance

1. The following uses, whether existing or proposed, are not permitted and any existing uses listed below are subject to removal in accordance with the amortization section (subsection (a)(2)d.): Class I regulated commercial uses, including amusement arcades, massage parlor service or facility, adult bookstore, adult theatre, adult amusement, recreation or entertainment center or facility, as defined and regulated by Chapter 732 of this Code.

2. The following uses seeking to locate within the North Meridian Street Corridor after the effective date of this article shall not be permitted. Any of the following uses lawfully in existence on the date of this article shall be permitted to remain.

(a) Pawnshops, loan shops, and variety stores.

(b) Gasoline service stations, on any lot with frontage on Meridian Street.

(c) Used car sales, except as an accessory use to new car sales.

(d) Car wash completely indoors, self-service car wash, automatic or semi-automatic car wash.

(e) Package liquor store except as a part of an integrated commercial center.

(f) Drive-in restaurant (fast food restaurant) except as a part of an integrated commercial center. Drive-in restaurant is defined by Chapter 732.

(g) Indoor commercial amusement, recreation and entertainment including: bowling alley, billiard parlor, gymnasium, tennis facility, roller or ice skating rink, night club, private club, or lounge on any lot fronting on Meridian Street except as a part of an integrated commercial center or as an accessory use to an office, hotel, or apartment complex.

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

(a) Required front yard, minimum setback. Buildings and structures shall be located along the established front setback line (as defined in Chapter 732 of this Code.

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

(c) Screening and landscaping of required front yards.

(i) Front yards shall be landscaped in an open pattern, in grass and shrubbery, trees and/or hedge to provide a partial screening of the commercial use. An ornamental, decorative fence or masonry wall, not more than two and one-half (21/2) feet in height if solid, or six (6) feet if

open, may be used in conjunction with the landscaping. Chain-link fence may not be used in conjunction with landscaping in required front yards.

Provided, however, along any portion of a lot where parking exists or is proposed in front or at the side of the structure, there shall be provided and maintained along the front lot line of the parking areas a buffer screen of either:

Architectural screen. A wall or fence of ornamental block, brick, solid wood fencing, or combination thereof. Such wall or fence shall be at least forty-two (42) inches in height and shall be so constructed to such minimum height to restrict any view therethrough; or

Plant material screen. A compact hedge of evergreen or deciduous shrubs, at least thirty-six (36) inches in height at the time of planting.

The ground area between such wall, fence or hedge and the front lot line shall be planted and maintained in grass, other suitable ground cover, shrubbery and/or grass. All shrubs and trees shall be planted balled and burlapped and shall meet the standards of the American Association of Nurserymen (a copy of which is on file in the office of the Division of Planning and Zoning, Department of Metropolitan Development of Marion County, Indiana, and is hereby incorporated by reference and made a part hereof).

(ii) Minimum maintenance standards for screening and landscaping area:

- All trash containers/dumpsters shall be screened from frontage views.

- Equipment and supplies such as tires, parts, machinery, tools and the like shall be screened or stored in an enclosed space.

- Inoperable vehicles and any related parts shall be screened or stored in an enclosed space.

- All lawns, required front, rear and side yards shall be regularly mowed during growing season, and shall be free of weeds, trash, and litter at all times.

- Shrubbery, trees, ground cover and planting beds shall be maintained in a safe, functional, and aesthetic condition.

- Walks, steps, drives and parking lots including surface and edges shall be maintained in a safe, functional and clean condition. Chuckholes, in parking lots, broken curbs and crumbling sidewalks shall be repaired to original condition.

- Building exteriors including awnings, porches, hardware and windows shall be properly maintained, kept clean, painted and in good repair.

- All existing and proposed uses shall comply with these maintenance standards after the effective date of this article.

(iii) All existing uses and all new uses shall be required to meet the screening and landscaping provision of this section as stipulated in the amortization provisions of this article (subsection (a)(2)d.).

(d) Signs.

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

(a) Business signs within the North Meridian Street Corridor shall be limited to wall signs, ground signs, pole signs and projecting signs.

- Pole signs shall not exceed thirty-six (36) square feet per sign face.

- Ground signs shall not exceed thirty-six (36) square feet per sign face.

- Projecting signs shall not exceed eighteen (18) square feet per sign face.

(b) All existing business signs and all new business signs within the North Meridian Street Corridor shall be required to meet the provisions of this section and the amortization provisions of subsection (a)(2)d. of this section.

(ii) Advertising signs: Advertising signs shall be permitted and shall comply with the sign regulations of Chapter 734 of this Code.

(iii) All existing signs and all proposed signs within the North Meridian Street Corridor shall be required to meet the provisions of this section and the amortization provisions of subsection (a)(2)d. of this section.

d. Amortization provisions. Amortization of certain nonconforming uses and amortization of certain nonconforming site development requirements.

1. Uses to be amortized: All class I regulated commercial uses including amusement arcades, massage parlor service or facility, adult bookstore, adult theatre, adult amusement, recreation or entertainment center or facility, as defined and regulated by Chapter 732 of this Code where such uses are located within the North Meridian Street Corridor on the effective date of this article. Such nonconforming uses shall be terminated before January 1, 1990, and all other use of the land, structure, or premises thereafter shall be in accord with permitted land uses and regulations of the applicable zoning district and the Regional Center secondary zoning district. The termination of such nonconforming uses shall be accomplished without the payment of compensation therefor unless, on the date such termination is required, there is in effect a state statutory provision which specifically requires the payment of compensation for termination or removal of any such use.

2. Amortization of certain nonconforming site development requirements: All property within the North Meridian Street Corridor existing within any zoning district on the effective date of this article:

(a) Shall conform to the following subsections of this section before January 1, 1990: Use of required yards (subsection (a)(2)c.3.(b)); screening and landscaping of required yards (subsection (a)(2)c.3.(c)); and business signs (subsection (a)(2)c.3.(d)).

(b) Such nonconforming use of required yards, screening and landscaping of required yards, and business signs shall be in accordance with permitted land uses and regulations of the applicable zoning district and the Regional Center Secondary Zoning District of Marion County upon such date. The termination of such nonconforming standards or uses shall be accomplished without the payment of compensation therefor unless, on the date such termination is required, there is in effect a state statutory provision which specifically requires the payment of compensation for the termination or removal of any such use.

(3) *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:

- 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 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.

SECTION 24. Sections 735-750 and 735-751 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

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 ~~Neighborhood and Development Services~~ 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 ~~Neighborhood and Development Services~~ 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.

(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 ~~neighborhood and development services~~ division of compliance 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 which 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 ~~neighborhood and development services~~ 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 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 which 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 which 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 which 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 which 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 which 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 footcandles (as specified in Architectural Graphics Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York). The minimum average maintained horizontal footcandles 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.

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 ~~neighborhood and development services~~ 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.

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.

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.

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 center line 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 devoted primarily to 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.

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.

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, center lines of rights-of-way, and dimensions.

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.

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.

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.

SECTION 25. Sections 735-800 and 735-801 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

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 Public Works, Environmental Resources Management Division ("ERMD")~~ OES, with input from a Committee including representatives from ~~ERMD~~ OES, the Department of Metropolitan Development ("DMD"), 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. The first of these reevaluations shall be completed by ~~ERMD~~ OES on or before December 31, 1998.

(d) *Reports.*

(1) The ~~ERMD~~ OES shall provide progress reports on the studies and evaluations as required in subsection (a) above to the chairman of the Metropolitan Development Committee of the city-county council 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 (a)(2) 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 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 Commission, and the Health and Hospital Corporation of Marion County.

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 Metropolitan Development 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 Metropolitan Development Commission by the technically qualified person in the ~~Division of Neighborhood Services~~ Department of Public Works 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.

SECTION 26. Section 735-803 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

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.

<u>*OES.* The office of environmental services of the department of public works.</u>

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, center lines 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 ~~(a) any person provided by the ERMD pursuant to a contract or memorandum of understanding between the Department of Metropolitan Development ("DMD") and ERMD~~ an employee of the OES, or ~~(b)~~ any person with whom the ~~ERMD~~ OES has a services contract ~~and who is provided to DMD by ERMD pursuant to a contract or memorandum of understanding between DMD and ERMD~~. 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.

SECTION 27. Section 735-918 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

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 ~~Neighborhood Services~~ 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.

SECTION 28. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 29. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 30. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

Proposal No. 32, 2002 was retitled GENERAL ORDINANCE NO. 3, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 3, 2002

PROPOSAL FOR A GENERAL ORDINANCE to amend the "Revised Code of the Consolidated City and County" to reorganize the division of permits of the department of metropolitan development under the new name "division of compliance," to assign certain powers and duties to such division including duties previously assigned to other divisions and departments, and to make corresponding technical corrections to numerous sections of the Code.

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

SECTION 1. Sections 231-301 through 231-306 of the "Revised Code of the Consolidated City and County," inclusive, regarding divisions of the department of metropolitan development, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 231-301. Divisions established.

The department of metropolitan development shall be composed of the following divisions:

(1) Division of neighborhood services.

(2) Division of planning.

(3) Division of administrative services.

(4) Division of community development and financial services.

(5) Division of ~~permits~~ compliance.

Sec. 231-302. Division of neighborhood services.

(a) The division of neighborhood services is responsible for establishing a resident and community-based framework through which citizens can work cooperatively to direct and sustain the physical, social, and economic development of their neighborhood.

(b) Powers and duties of the division include:

~~(1) Powers and duties conferred on the implementing agency under IC 36-7-4 (including actions which are the responsibility of the planning department, the division of planning and zoning and the staff), except for technical activities supporting preparation of the comprehensive plan described in the 500 series);~~

~~(2) Initiate a review of the issuance of a certificate of appropriateness in accordance with IC 36-7-11.1-9(f);~~

~~(3) Powers and duties conferred on the department of metropolitan development under section 341-102 of this Code;~~

~~(4) Receive or process applications or documents for other departments, divisions or agencies of local government relative to the development or use of real estate when an agreement for such service is made; and~~

(1) Maintaining a centralized easy access for citizens to request service and information from the government of the consolidated city; and

~~(5)~~(2) Any other powers and duties granted by statute or ordinance or delegated by the mayor.

Sec. 231-303. Division of planning.

(a) The division of planning is responsible for planning activities throughout the county that will secure orderly growth, encourage effective use of municipal facilities and resources and provide a desirable quality of life for its citizens.

(b) Powers and duties of the division include:

(1) Accomplishing land use and housing planning, economic and fiscal planning (including the preparation of a capital expenditure program), transportation planning, environment and energy planning, and urban design and planning for projects, neighborhoods, open space and leisure systems;

(2) Accomplishing technical work in support of preparation of a comprehensive plan described in the 500 series of IC 36-7-4;

(3) Accomplishing technical work in support of preparation of a thoroughfare plan as described in IC 36-9-6.1-3, 4, 7 and 8; ~~and~~

(4) Powers and duties conferred on the implementing agency under IC 36-7-4 (including actions which are the responsibility of the division of planning and the staff) except for the issuance of improvement location permits;

(5) Initiating a review of the issuance of a certificate of appropriateness in accordance with IC 36-7-11.1-9(f);

(6) Powers and duties conferred on the department of metropolitan development under section 341-102 of this Code;

(7) Receiving and processing applications or documents for other departments, divisions or agencies of local government relative to the development or use of real estate when an agreement for such service is made; and

~~(4)~~(8) Any other powers and duties granted by statute or ordinance or delegated by the mayor.

Sec. 231-304. Division of administrative services.

(a) The division of administrative services is responsible for:

(1) ~~p~~Providing real estate services for the department, including, acquiring or disposing of any interest in real or personal property, leasing or renting any buildings, structures or facilities included with a housing, economic development, other development or redevelopment project or public safety initiative; and

(2) ~~f~~Facilitating the economic growth and revitalization of the city through various local economic development programs including, but not limited to real property tax abatement, residential distress tax abatement, industrial revenue bonds, tax increment financing, and for providing administrative support for the department.

(b) Powers and duties conferred on the department of metropolitan development by IC 36-7-15.1.

(c) This division shall have other powers and duties granted by statute or ordinance or delegated by the mayor or department director.

Sec. 231-305. Division of community development and financial services.

(a) The division of community development and financial services is responsible for providing affordable housing, development and rehabilitation opportunities, encouraging economic opportunities, building neighborhood capacity, providing homeless assistance and human services, administering an unsafe building program, administering various federal programs and for providing financial services for the department.

(b) Powers and duties of the division include:

(1) On behalf of the director, designating and authorizing the receipt and distribution of all funds received by the department pursuant to acts of the United States Congress including but not limited to the Housing and Community Development Act of 1974, as amended, the National Affordable Housing Act of 1990, as amended, and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended. The granting of this power shall not limit the power of the mayor to execute agreements with the United States Government to receive those funds.

(2) Facilitating the creation of affordable housing opportunities for low income households, including the homeless and persons with special needs, through the provision of programs including, but not limited to, Community Development Block Grant Program, ~~Home~~ HOME Investment Partnerships Program, ~~Home Ownership Opportunity for People Everywhere Program (Hope 3),~~ Housing Opportunities for People with ~~Aids~~ AIDS, Emergency Shelter Grants, Section 108 Loan Guarantee Program, ~~Section 312 Program, Rental Rehabilitation Program, Resolution Trust Corporation, Affordable~~ Supportive Housing Program~~, Urban Housing Reinvestment Program~~ Mark to Market Program.

(3) Facilitating the economic growth and revitalization of the city, through various local economic development programs including, but not limited Community Development Block Grant Program, Section 108 Loan Guarantee Program, Commercial Facade Program, ~~Urban Development Action Grant Program, Urban Development Action Grant Program,~~ support for the Indianapolis Enterprise zone, and Enterprise Community.

(4) Powers and duties granted to the division under section 231-401 through section 231-405 of the Code and continuing the administration and compliance monitoring of the previously established Urban Homesteading Programs for the Consolidated City of Indianapolis as provided by HUD guidelines and section 231-401 through 231-405 of the Code.

(5) The provision of public services and facilities including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing, energy conservation, welfare, recreational or special needs.

~~(6) Acquiring or disposing of any interest in real or personal property, leasing or renting any buildings, structures or facilities included with a housing, economic development, other development or redevelopment project or public safety initiative.~~

~~(7)~~(6) Powers and duties conferred on the enforcement authority by IC 36-7-9.

~~(8)~~(7) Conducting or contracting with an enforcement entity to conduct a program to issue orders to repair, board or demolish hazardous, unsafe or problem structures which contribute to urban blight including but not limited to the powers and duties in Chapter 537 of the Code.

~~(9)~~(8) Powers and duties conferred on the department of metropolitan development by IC 36-7-15.1.

~~(10)~~(9) The division shall have other powers and duties granted by statute or ordinance or delegated by the mayor or department director.

Sec. 231-306. Division of ~~permits~~ compliance.

(a) The division of ~~permits~~ compliance is responsible for enforcing land use requirements and promoting responsible development through inspections and issuance of permits.

(b) Powers and duties of the division include:

(1) Powers and duties which the division of ~~code enforcement~~ compliance is authorized or required to carry out under this Code, including but not limited to powers and duties found in ~~Chapter 537 and Title IV of the Code~~ Chapters 391, 536, 537, 561, 645, 671 and Title IV of the Code;

~~(2) Powers and duties which the division of buildings is authorized or required to carry out under this Code, including but not limited to powers and duties found in Chapters 391, 536, 561, 671 of the Code;~~

~~(3)~~(2) ~~License~~ Licensing persons and business organizations engaged in construction activity, issue building permits, make building inspections and take other appropriate actions for the purpose of securing safe construction and assuring proper maintenance of existing structures;

~~(4)~~(3) ~~Enforce~~ Enforcing building regulations established by the Fire Prevention and Building Safety Commission of the State of Indiana;

~~(5)~~(4) ~~Enforce~~ Enforcing provisions of state law or city ordinance relating to the development, condition, maintenance or use of real estate, as required by ordinance or assigned by the mayor; ~~and~~

(5) Issuing improvement location permits on behalf of the metropolitan development commission in accordance with Chapter 730, Article III, of the Code; and

(6) Any other powers and duties granted by statute or ordinance or delegated by the mayor.

SECTION 2. Section 361-103 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 361-103. Enforcement.

This chapter and the rules and regulations authorized in section 361-104 shall be enforced by the department of public works and/or the authorized designee of the director of the department of public works, ~~by~~ the division of ~~code enforcement~~ compliance of the department of metropolitan development, the Indianapolis police department, and the Marion County sheriff's department~~, acting on their own motion or at the request of the board of public works~~.

SECTION 3. Section 361-107 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 361-107. Recovery by city of expenses of litter removal.

(a) The city is damaged by the depositing of litter within the city, and the cost of litter removal has become a significant expense of the city. It is intended that persons responsible for such expenses shall bear the costs of same. In order to recover the cost of litter removal, the city may bring a civil action against any person believed to be responsible for depositing litter. The city may, in order to avoid the necessity of the institution of such action, make an offer of settlement to any person believed to be responsible for depositing litter. If the settlement offer is accepted, no action will be instituted by the city.

(b) The ~~department of public works, the~~ division of ~~code enforcement~~ compliance of the department of metropolitan development, the Indianapolis police department and the Marion County sheriff's department

and their authorized agents shall be responsible for determining the identity of persons responsible for damaging the city by depositing litter within the city, and, except as provided in subsection (d) of this section, are hereby empowered, as agents of the city, to make to any person believed to be responsible for damaging the city by depositing litter within the city, an offer of settlement as provided in subsection (a) of this section.

(c) The board of public works shall determine a standard amount of the settlement offer authorized to be made by this section. In determining the standard amount of the settlement offer, the board of public works shall consider only such factors as may reasonably be considered when any individual offer of settlement is determined.

(d) The provisions of subsection (b) of this section shall not be construed to require that a settlement offer be made if the amount of damage caused by the litter being deposited in the city is significantly greater than the standard amount of the settlement offer determined by the board of public works pursuant to subsection (c) of this section.

SECTION 4. Section 391-203 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 391-203. Abatement by the division of ~~permits~~ compliance; fire and police departments; health and hospital corporation.

(a) The division of ~~permits~~ compliance of the department of metropolitan development, acting in cooperation with the chiefs of the fire and police departments and the officers of the health and hospital corporation, is charged with the duty of inspecting any building constituting a nuisance under this chapter and the division, or any of such officials, shall aid in abating any such nuisance and in enforcing the law in all matters within their respective jurisdiction and duties.

(b) Whenever the division of ~~permits~~ compliance has information from any source, including any of the officials named in subsection (a), that any building is alleged to be a nuisance within the provisions of this chapter, it shall cause an examination thereof to be made. If, in its opinion after such examination, the building constitutes a nuisance within the provisions of this chapter, it shall serve written notice upon the owner of the building or the person in possession, charge or control thereof, directing him to abate the nuisance, if it is abatable, and specifying the defects or things to be corrected to place the building in a safe condition, and to eliminate any condition producing such nuisance. If conditions are such that the defects or things cannot be corrected, eliminated or abated, the owner shall be ordered and required to demolish the building as provided by any applicable statute or by this Code. The notice shall provide and name a reasonable time within which the nuisance shall be abated or the building demolished.

(c) Upon the failure of the person notified to obey the notice given pursuant to subsection (b), the division of ~~permits~~ compliance, after the expiration of the time specified in the notice, shall cause a summons to be issued to the person requiring him to appear and show cause before the mayor, at a time and place named in the notice, why the nuisance should not be ordered to be summarily abated or, in event the alleged nuisance cannot be abated, why the building should not be demolished. If, upon a hearing of the case, to be conducted under the procedure for the revocation of licenses, the mayor determines that the building cannot be repaired or put in a safe condition, he shall render a decision and order that the building be demolished by the defendant within a time specified and, upon failure of the defendant to demolish it, the demolition shall be done by the city, or by a contractor in its behalf, at the expense of the defendant as provided by the statute thereon. In the event the mayor, upon such hearing, shall find that the building constitutes a nuisance, but that the nuisance can be abated by doing certain things to the building, such as repairs, changes, alterations or renovation, the mayor shall provide in his order how and in what manner the nuisance may be abated, and shall designate the time within which such acts must be begun and completed. In such case, the order shall further provide that if the defendant fails to begin compliance with such order within the time specified, notices shall be placed at all the entrances of the building, stating in substance that the premises therein have been condemned and declared to be a nuisance and unsafe and shall not be further used by any person. All the entrances to the premises upon the sidewalk, street or alley shall be blocked off by barriers or guardrails and may be securely locked. In the event of an appeal to a court being taken from the mayor's order, pending such appeal or other legal action, the division of permits shall cause to be erected on the street or sidewalk adjacent to the entrances of the building signs stating that the building has been declared to be dangerous and unsafe and a public nuisance. Such signs shall not be removed or defaced by any person and shall remain until such appeal or other legal action is finally decided.

SECTION 5. Section 391-302 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 391-302. Unlawful noises.

(a) Except as otherwise provided in this section, it shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health and peace or safety of others within the city. Accordingly, the following acts, among others, are declared to be loud, disturbing and unnecessary noises and in violation of this section, but such enumeration shall not be deemed to be exclusive:

(1) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle in any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand, air or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the continued or repeated use of any such signaling device when traffic is for any reason held up, or in any parade, or in any group of vehicles.

(2) *Radios and phonographs.* Playing, using or operating, or permitting to be played, used or operated, any radio or television receiving set, musical instrument, phonograph, calliope or other machine or device for producing or reproducing sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated, and who are voluntary listeners thereto, except when a permit therefor for some special occasion is granted. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.

(3) *Loudspeakers, amplifiers for advertising.* Playing, using or operating, or permitting to be played, used or operated, any radio or television receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for producing or reproducing sound at any place upon the public streets or in any vehicle used for the transportation of persons for hire as a common carrier, for the purpose of commercial or other kind of advertising or attracting the attention of the public to any activity or building or structure, which is so used as to disturb and annoy other persons in their businesses, homes or elsewhere in their right of personal privacy and quiet.

(4) *Yelling, or shouting.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(5) *Animals or birds.* The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any person in the vicinity.

(6) *Steam whistles.* The blowing of any locomotive steam whistle, or steam whistle attached to any stationary boiler, or one operated by any other means, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of the proper city authorities.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, internal-combustion engine, or any other type of engine or power unit on a motorboat, motor vehicle, motorcycle or other vehicle or craft of any kind, except through a muffler or other device which will effectively reduce and prevent loud or explosive noises therefrom.

(8) *Defect in vehicle or load.* The use of any automobile, motorcycle or other kind of vehicles so out of repair, or so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or other noises.

(9) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates and containers.

(10) *Construction or repairing of buildings.* The erection, demolition, alteration or repair of any building, or the excavation therefor, other than between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Saturday, except in the case of urgent necessity in the interest of public health and safety, and then only with a permit from the division of ~~permits~~ compliance of the department of metropolitan development, which permit may be granted for a period not to exceed three (3) days

while the emergency continues and which permit may be renewed for periods of three (3) days while the emergency continues. If the division of permits should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building, or the excavation therefor, or of any streets and highways, between the hours of 6:00 p.m. and 7:00 a.m., or on Sunday, and that loss or inconvenience would result to any party in interest, it may grant permission for such work to be done between the hours of 6:00 p.m. and 7:00 a.m., or on Sunday, upon application being made at the time the permit for the work is issued or during the progress of the work.

(11) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while it is in use, or adjacent to any hospital which unreasonably interferes with the operation thereof or which disturbs or unduly annoys patients in the hospital; provided that conspicuous signs are displayed in such streets indicating that the same has been declared and is a school, hospital or other such quiet zone.

(12) *Hawkers and peddlers.* The loud shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

(13) *Drums.* The use of any drum, horn or other instrument or device for the purpose of attracting attention by creation of noise to any performance, exhibition, show or sale; except in a parade or place for which a permit has been granted.

(14) *Transporting metal rails, pillars and columns.* The transportation of rails, pillars or columns of iron, steel or other material over and along the streets and other public places of the city, upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) *Railway cars, buses.* Causing, permitting or continuing any excessive, unnecessary and avoidable noise in the operation of a bus or railway car by reason of defective conditions therein or of its tracks.

(16) *Pile drivers, hammers.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance the use of which is attended by loud or unusual noise, except when being operated by a public utility in connection with emergency repairs of such utility.

(17) *Blowers.* The operation of any noise-creating blower or power fan, or any internal-combustion engine, the operation of which causes noises due to the explosion of operating gases or fluids, unless the noise from the blower or fan is muffled and the engine is equipped with a muffler device sufficient to deaden such noise.

(18) *Vendor's vehicle.* Using, operating or playing, or permitting to be used, operated or played, any bell, radio, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for producing or reproducing sound in or upon any vehicle used for the transportation and sale of any goods, wares or merchandise in or upon any of the streets or highways within the city, which sound-producing instruments are set to produce any noise, music or sound in excess of one hundred fifteen (115) decibels, measured at six (6) inches from the sound-producing amplifier of the speaker; the use and operation of any vehicle so equipped, with such sound-producing equipment in operation, between the hours of 10:00 p.m. and 10:00 a.m. of the succeeding day; or the use or operation of any such sound-producing equipment in or upon any such vehicle while the vehicle is moving along or upon any street or highway; it being the intent and purpose of this subsection to permit the use of such sound-producing equipment in or upon any such vehicle only when the vehicle is parked or standing still in or upon any street or highway and during the hours provided in this subsection.

(19) *Portable radios in public conveyances.* The audible using, operating or playing, or permitting to be used, operated or played, any radio, musical instrument or electronic recording device of any kind or character whatever in any public conveyance, except taxicabs and jitneys, operating in the city; provided, however, it shall not be unlawful to listen to any such device by means of earplugs inserted in the hearer's ear and inaudible to any other person.

(b) The first violation in any calendar year shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code. All second and subsequent violations in the calendar year are subject to the enforcement procedures and penalties provided in section 103-3 of this Code.

SECTION 6. Section 431-501 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 431-501. Neglected premises abutting public ways.

(a) It shall be the duty of any person owning or controlling a house or other building or premises, including vacant lots, abutting on any public way to maintain such premises in a reasonably clean and orderly manner and to a standard conforming to other orderly premises in that vicinity. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to become unclean, with an accumulation of litter or waste thereon, including wastepaper, rags, cans, bottles, boxes, lumber, metal, garbage or disused or inoperable motor vehicles, trailers or any other machinery, appliances or furniture thereon, unless specifically authorized under existing laws and regulations, or to allow a rank growth of grass, weeds or other vegetation to remain thereon, or to permit the premises to become unsightly, unsanitary, obnoxious, a fire hazard, a blight to the vicinity or offensive to the senses of the users of any public way abutting such premises, and so to continue for a period longer than thirty (30) days in any calendar year; or to fail to comply with these regulations after a written order of any city police or public health authority to remedy such conditions.

(b) The director of ~~asset management and~~ the department of public works, where premises are abandoned or neglected for more than thirty (30) days, is hereby empowered to enter upon the premises and, if the person controlling such premises does not forthwith comply with such written order, the director may thereupon correct the unclean conditions and place a lien on such land in the same amount and in accordance with the procedure provided for weed cutting in the city; but such person shall also be liable to an action to recover the aforesaid penalty.

(c) Any person violating any provision of this section, upon conviction, shall be fined in any sum not exceeding ten dollars ($10.00), and each day's violation thereof shall constitute a separate offense.

SECTION 7. Section 441-402 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 441-402. Special authority to establish intersection traffic controls.

(a) The director of ~~asset management and~~ public works shall at all times have the right to enter, issue and enforce a temporary order to establish intersection traffic controls upon a finding of an emergency or a special condition.

(b) Upon the issuance of said order, the director of ~~asset management and~~ the department of public works shall cause said intersection traffic controls to be installed, erected and maintained until such time as the emergency or special condition no longer exists or until acted upon by council.

(c) Upon the issuance of said order, the director of ~~asset management and~~ the department of public works shall cause notice to be published in accordance with state statute.

SECTION 8. Section 561-105 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-105. "Division of ~~permits~~ compliance" defined.

As used herein, "division of ~~permits~~ compliance" shall mean the division of ~~permits~~ compliance of the department of metropolitan development of the City of Indianapolis.

SECTION 9. Section 561-221 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-221. When drainage permits required; enforcement; exceptions.

(a) Except for activity specified in subsection (b), it shall be unlawful for a person, partnership or corporation to undertake or accomplish any land alteration without having in force a written drainage permit obtained from the ~~department of public works~~ division of compliance. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars ($100.00), and each day that an offense

continues shall constitute a separate violation. The city controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the department of public works.

(b) The permit specified in subsection (a) shall not be required for:

(1) Excavation of cemetery graves;

(2) Refuse disposal sites where storm drainage is controlled by other regulations;

(3) Excavation for wells, excavation and backfills for poles, conduits, and wires of utility companies;

(4) 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;

(5) Ordinary cultivation of agricultural land including tilling, terracing, construction of minor open ditches and crop irrigation;

(6) The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and minor landscaping of land appurtenant to residences;

(7) Fill and grading of a former basement site after the demolition of a structure, to conform to adjacent terrain;

(8) Fill of small holes caused by erosion, settling of earth or the removal of such materials as dead trees, posts or concrete;

(9) A fill less than one (1) foot in depth, and placed on natural terrain with a slope flatter than ten (10) percent, not intended to support structures, which does not exceed fifty (50) cubic yards per acre and does not obstruct drainage;

(10) Maintenance of drainage facilities;

(11) Installation of septic systems, when a proper permit has been obtained;

(12) Construction of a driveway, when a proper permit has been obtained;

(13) Installation of building sewers, when a proper permit has been obtained;

(14) An enlargement or exterior change that does not exceed twenty-five (25) square feet in floor area to an existing structure, when no part of the structure, or the enlargement or exterior change to the structure, is located in an impacted drainage area;

(15) Placement of an accessory structure, not exceeding one hundred twenty (120) square feet in floor area, to a one- or two-family dwelling, when the accessory structure is not located on a permanent foundation;

(16) Exterior changes to a structure which do not change the ground floor area of the structure, unless the roof of the building is part of a retention-detention system; or

(17) Construction of a deck which extends over open ground at least eight (8) feet above grade or which is constructed so that water freely and directly flows through the deck to the ground below the deck.

(c) The drainage permit must be obtained before any work is initiated with the exception of testing to determine procedures or materials.

SECTION 10. Sections 561-223 through 561-229 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-223. Application; issuance.

(a) Application for a drainage permit shall be made to the ~~department of public works~~ division of compliance. The application shall be in writing on a form prescribed by the ~~department~~ division.

(b) A drainage permit shall be issued if:

(1) The person, partnership or corporation is eligible to apply for and obtain a drainage permit under section 561-222;

(2) The application required by this section and supporting information required by either section 561-224 or section 561-225 have been properly prepared and submitted;

(3) The drainage plan, together with supplemental information required by either section 561-224 or section 561-225 reflect compliance with drainage requirements;

(4) A certificate of sufficiency of plan and a certificate of obligation to observe have been filed by a registered professional engineer, land surveyor or architect, engaged in storm drainage design;

(5) If required by the ~~director~~ administrator of the division of compliance, a bond has been posted pursuant to section ~~561-241~~ 561-231;

(6) If required by the ~~director~~ administrator of the division of compliance, a covenant has been executed pursuant to section ~~561-242~~ 561-232;

(7) If required by the ~~director~~ administrator of the division of compliance, an easement has been dedicated pursuant to section ~~561-243~~ 561-233;

(8) The applicable fee, computed in accordance with Division 8 of Article II of this chapter, has been paid.

Sec. 561-224. Professionally prepared and certified drainage plans.

(a) A drainage plan fulfilling the requirements of this section shall be submitted to the ~~department of public works~~ division of compliance for approval before a drainage permit can be obtained to accomplish a land alteration, unless the land alteration is such that a drainage permit can be obtained in accordance with section 561-225. The drainage plan must be submitted in duplicate and shall indicate in a precise way the work to be accomplished pursuant to the drainage permit. One (1) copy of the drainage plan will remain on file in the ~~department~~ division. The following information must be submitted for approval:

(1) *Construction features.* The drainage plan shall demonstrate and describe surface and subsurface drainage and include the following:

a. *Scale; arrow; contours and USGS bench marks:* The drainage plan shall be drawn to scale, preferably one (1) inch per fifty (50) feet, and an arrow indicating north shall appear on each page. Existing land contours shall be shown, with one-foot contours for land with a slope flatter than ten (10) percent, two-foot contours for slopes equal to or greater than ten (10) percent but flatter than twenty (20) percent, and five-foot contours for slopes equal to or greater than twenty (20) percent. A bench mark, which is easily accessible and relocatable, shall be shown. The bench mark may be assumed at the discretion of the director if the area contains less than three (3) acres, but otherwise shall be determined by USGS datum.

b. *Location and vicinity map:* A map which indicates the location and vicinity of the proposed land alteration shall be included in the drainage plan.

c. *Existing and proposed drainage facilities:* The drainage plan shall show the locations of all existing and proposed drainage facilities. Storm drains and manholes and other structures shall be located in the plans by dimensions from traverse lines, property markers or road centerlines. However, the areas where physical features are not available, coordinates of manholes and bearings of storm drains shall be based either on the state's coordinate system or other acceptable horizontal and vertical datum. If applicable, the drainage plan should show the direction of flow, elevation of inverts, gradient, size and capacity of existing and proposed storm drains. When using existing storm drains, the capacity shall be indicated.

d. *Plan and profile:* The plan shall be shown at the upper portion of the drawing. The plan, generally, shall be drawn on a scale of one (1) inch equals fifty (50) feet. The plan shall show appropriate right-of-way and easement limits. The profile shall be shown under the plan and shall extend a sufficient distance downstream of the outlet to allow any pertinent information concerning the outfall channel to be shown. The storm drain and inlet profile shall generally be drawn on a scale of one (1) inch equals fifty (50) feet horizontal, one (1) inch equals five (5) feet vertical. Where a storm drain is located in an existing or proposed pavement or

shoulder, the centerline grade of the road shall be shown. Where a storm drain is located outside pavement or shoulder, the existing ground over the storm drain with proposed grading shall be shown. If the storm drain is to be constructed on fill, the profile of the undisturbed earth, at drain location, shall be shown.

(2) *Design calculations.* Design calculations are required as part of the drainage plan and shall specifically include:

a. Estimation of stormwater runoff:

1. Drainage area map (scale one (1) inch equals two hundred (200) feet) indicating contours at two-foot intervals and limits of one-hundred-year floodplain, where applicable;

2. Weighted runoff coefficient computations;

3. Time of concentration computation indicating overland flow time and flow time in the swale, gutter, pipe or channel.

b. Close conduit and open channel design computations:

1. Size of pipe or channel cross section;

2. Pipe or channel inverts slope in percent;

3. Roughness coefficient;

4. Flowing velocities in feet per second;

5. Design capacity in cubic feet per second.

c. Head loss computations in manholes and junction chambers;

d. Hydraulic gradient computations, wherever applicable;

e. Erosion control methods.

Such design calculations shall conform with the standards of Article III, Division 5 of this chapter and all regulations promulgated thereunder.

(3) *Additional information.* The ~~director~~ administrator of the division of compliance shall be empowered to require such additional information to be included in a drainage plan that is necessary to evaluate and determine the adequacy of the proposed drainage facility.

(4) *Certification required.* All drainage plans submitted under this section must be certified by a registered professional engineer, land surveyor or architect engaged in storm drainage design under whose supervision the plans were prepared. The certificate shall be in the following form:

CERTIFICATE OF SUFFICIENCY OF PLAN

Permit Number _____

Address where land alteration is occurring _____

Plan Date _____

I hereby certify that to the best of my knowledge and belief:

(1) The drainage plan for this project is in compliance with drainage requirements (as set forth in Chapter 561 of the Revised Code of the Consolidated City and County) pertaining to this class of work.

(2) The calculations, designs, reproducible drawings, masters and original ideas reproduced in this drainage plan are under my dominion and control and they were prepared by me and my employees.

Signature _____ Date _____

Typed or Printed Name _____ Phone _____

(SEAL)

Business Address _____

Surv. _____ Eng. _____ Arch. _____ Indiana Registration No. _____

(5) *Obligation to observe.* All drainage plans submitted under this section must include a certificate of obligation to observe by a registered professional engineer, land surveyor or architect engaged in storm drainage design. The certificate shall be in the following form:

CERTIFICATE OF OBLIGATION TO OBSERVE

Permit Number _____

Address where land alteration is occurring _____

Plan Date _____

I will perform periodic observations of this project during construction to determine that such land alteration is in accordance with both the applicable drainage requirements and the drainage plan for this project submitted for a drainage permit to the ~~department of public works~~ division of compliance of the department of metropolitan development.

Signature _____ Date _____

Typed or Printed Name _____ Phone _____

(SEAL)

Business Address _____

Surv. _____ Eng. _____ Arch. _____ Indiana Registration No. _____

(b) The approval of a drainage plan by the ~~department of public works~~ division of compliance under this section shall be valid for a period of one (1) year from the date such approval was granted, or until the drainage permit for which the plan was submitted is issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved drainage plan or circumstances which cause the drainage plan to be inaccurate or incomplete, then a new or corrected drainage plan shall be submitted to the ~~department~~ division as a precondition for obtaining a drainage permit.

Sec. 561-225. When professionally prepared and certified drainage plan not required.

(a) A drainage plan that does not contain as much information as drainage plans prepared to fulfill the requirements of section 561-224 and that is not prepared or certified by a registered professional engineer, land surveyor or architect engaged in storm drainage design may be submitted when:

(1) No part of the parcel or property for which the drainage permit is required is in an impacted drainage area; and

(2) The primary basis on which a drainage permit is required is the construction, enlargement or location, on a permanent foundation, of a one-family dwelling, two-family dwelling or accessory structure appurtenant to either a one- or two-family dwelling.

(b) The drainage plan must be submitted in duplicate and shall indicate the nature and location of all work to be accomplished pursuant to a drainage permit. The drainage plan must be neat, accurate and readable. One (1) copy of the drainage plan will remain on file in the ~~department of public works~~ division of compliance. The following information must be submitted for approval under this section:

(1) The legal description and the street address for the property;

(2) The dimensions and borders of the parcel;

(3) The name and address of the owner;

(4) An arrow indicating north;

(5) Location of all existing and proposed improvements, structures and paved areas on the site;

(6) Existing and proposed grading showing positive drainage by contouring or sufficient spot elevations; and

(7) Location of all existing or proposed swales, ditches, culverts, drainage channels, surface and subsurface drainage devices and the direction of the flow.

The drainage plan shall include information necessary to demonstrate conformity with all drainage requirements of Article III of this chapter. The plot map shall illustrate the surface drainage pattern of the site away from structures and the final distribution of surface water off site, either preventing or planning for surface ponding.

(c) The approval of a drainage plan by the ~~department of public works~~ division of compliance under this section shall be valid for a period of one (1) year from the date such approval was granted, or until the drainage permit for which the plan was submitted is issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved drainage plan or circumstances which cause the drainage plan to be inaccurate or incomplete, then a new or corrected drainage plan shall be submitted to the ~~department~~ division as a precondition for obtaining a drainage permit.

(d) Notwithstanding other provisions of this section, submission of a drainage plan shall not be required as a precondition for obtaining a drainage permit in the instance of a one- or two-family dwelling constructed in a subdivision for which a plat has been approved in accordance with ~~the Subdivision Control Ordinance, 58AO-13 as amended~~ Chapter 731, Article III of this Code, and for which a drainage plan meeting the requirements of section 561-224 has been approved and a permit issued under this chapter, so long as the permit applicant certifies that the land alteration shall be accomplished in compliance with the specifications and information found on the approved plat and on such drainage plan. Any deviations from the drainage provisions as approved in the plat and drainage plan for the subject plot must be submitted to the ~~department of public works~~ division of compliance for approval by the ~~director~~ administrator of the division, and the ~~director~~ administrator may require the submission of plans or other information relative to the deviation which may be required as a precondition to approval ~~by the director~~.

Sec. 561-226. Expiration of permit by operation of law; extensions.

(a) If the land alteration for which the permit has been issued has not commenced within one hundred eighty (180) days from the date of its issuance, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the ~~director~~ administrator of the division of compliance may, for good cause, shown in writing, extend the validity of the permit for an additional period which is reasonable under the circumstances to allow commencement of the land alteration. In no event shall the extension exceed a period of sixty (60) days.

(b) If the land alteration has been commenced but only partially completed, and thereafter no substantial land alteration has occurred on the site for a period of six (6) months, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the ~~director~~ administrator of the division of compliance may, for good cause shown in writing, extend the validity of such permit for an additional period which is reasonable under the circumstances to allow resumption of the land alteration.

(c) An extension under this section may be granted upon the payment of the applicable fee as computed in accordance with Division 8 of Article II of this chapter, and shall be confirmed in writing.

Sec. 561-227. Notice of change in permit information; amendment of permits and plans.

(a) After a permit has been issued, the permittee shall give prompt written notice to the ~~director~~ administrator of the division of compliance of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, any material deviation or change in the information contained in the permit application or in the approved plans shall be considered an amendment subject to approval by the ~~director~~ administrator of the division of compliance. Prior to the time land alteration involving the change occurs, the permittee shall file with the ~~director~~ administrator a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

(c) The ~~director~~ administrator of the division of compliance shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans.

(d) The ~~director~~ administrator of the division of compliance may approve an amendment to a permit or approved plans under this section upon the payment of the applicable fee as computed in accordance with Division 8 of Article II of this chapter. Reinspection fees or other fees which are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

Sec. 561-228. Determination of impacted drainage areas.

(a) The board of public works is authorized, but is not required, to classify certain geographical areas as impacted drainage areas and to enact and promulgate regulations for land alteration in impacted drainage areas, in addition to regulations which are applicable generally. Such classifications and regulations may be later modified or rescinded by the board of public works.

(b) Action of the board of public works to classify or declassify any area as an impacted drainage area, or to promulgate, repeal or modify any regulation in regard thereto, shall be in compliance with the requirements of Article III, Division 2 of this chapter, regarding promulgation, repeal and modification of regulations generally.

(c) In determining impacted drainage areas, the board of public works shall consider such factors as topography, soil type and distance from adequate drainage facilities. The following areas shall be designated as impacted drainage areas, unless good reason for not including them is presented to the board of public works:

(1) A floodway or floodplain designated by the metropolitan development commission in the zoning ordinance of Marion County, Indiana;

(2) Land within seventy-five (75) feet of each bank of any legal drain;

(3) Land within fifty (50) feet of each bank of a natural drainageway, including a river, stream, gully, ditch or other definite natural watercourse;

(4) Land where there is not an adequate outlet, taking into consideration the capacity of depth of the outlet.

(d) A map identifying impacted drainage areas shall be retained in the office of the ~~department of public works~~ division of compliance and shall be made conveniently available to members of the public during regular business hours.

Sec. 561-229. Transfer of permit.

(a) A drainage permit may be transferred with the approval of the ~~director~~ administrator of the division of compliance to a person, partnership or corporation which would be eligible under section 561-222 to obtain such drainage permit in the first instance (hereinafter called "transferee"), after both the payment of a fee as computed in accordance with Division 8 of this article and the execution and filing of a form furnished by the ~~department of public works~~ division of compliance. Such transfer form shall contain, in substance, the following certifications, release and agreement:

(1) The person who obtained the original drainage permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:

a. Certify under penalties for perjury that such person is familiar with land alteration activity accomplished pursuant to the drainage permit; such person is familiar with the drainage requirements applicable to the land alteration activity; and to the best of such person's knowledge, information and belief the land alteration activity, to the extent performed, is in conformity with all drainage requirements; and

b. Sign a statement releasing all rights and privileges secured under the drainage permit to the transferee.

(2) The transferee shall:

a. Certify that the transferee is familiar with the information contained in the original drainage permit application, the drainage plan, and any other documents filed in support of the application for the original drainage permit;

b. Certify that the transferee is familiar with the present condition of the premises on which land alteration activity is to be accomplished pursuant to the drainage permit; and

c. Agree to adopt and be bound by the information contained in the original application for the drainage permit, the drainage plan, and other documents supporting the original drainage permit application; or in the alternative, agree to be bound by such application, plan and documents as modified by an amendment submitted to the ~~director~~ administrator of the division of compliance for approval.

(b) The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor (including, but not being limited to, the requirement of section 561-241 that a certificate of completion and compliance be executed and filed) and shall be subject to any written orders issued by the ~~director~~ administrator of the division of compliance.

(c) A permit for land alteration activity at a specified location may not be transferred to land alteration activity at another location.

SECTION 11. Sections 561-231, 561-232, and 561-233 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-231. Posting of bond.

(a) The ~~director~~ administrator of the division of compliance may, as a prerequisite to the issuance of a drainage permit, require the posting of a performance bond from a company licensed by the State of Indiana to provide such surety, upon which the principal may be the owner of the affected land, the developer, or any other party or parties the ~~director~~ administrator believes necessary or helpful. Such bond shall name the City of Indianapolis and County of Marion as parties who can enforce the obligations thereunder, and shall be in an amount established by the ~~director~~ administrator as adequate to provide surety for the satisfactory completion of the improvements required by the drainage permit. In the instance of platting, such bond may be a part of the total bonding required by the plats committee of the metropolitan development commission.

(b) In instances where the ~~director~~ administrator of the division of compliance has required a performance bond pursuant to this section, the ~~director~~ administrator may, as an alternative to the posting of such bond, accept other appropriate security, such as a properly conditioned irrevocable letter of credit, which meets the same objectives as the performance bond described in this section, subject to approval of any other department or agency whose interests are protected by the same bonding requirement.

Sec. 561-232. Execution of covenant.

Where the ~~director~~ administrator of the division of compliance shall determine that such is necessary in order to achieve satisfactory present and future drainage of the parcel of land for which a drainage permit is sought and the area surrounding that parcel, the ~~director~~ administrator may, as a prerequisite to the issuance of a drainage permit, require the execution of covenants and/or easements running in form to the City of Indianapolis and County of Marion by the owner or owners of such parcel. As a minimum in such cases, the ~~director~~ administrator shall require that the following covenant be executed by the owner or owners of such land which will be included in a recorded plat:

"It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the ~~department of public works~~ division of compliance of the City of Indianapolis and the requirements of all drainage permits for this plat issued by said ~~department~~ division."

Sec. 561-233. Dedication of easement.

The ~~director~~ administrator of the division of compliance may, as a prerequisite to issuance of a drainage permit, require the dedication of easements to the City of Indianapolis and to owners of other affected lands by the owner of the parcel of land, relative to which application for a drainage permit has

been made, where such is necessary to achieve satisfactory present and future drainage of the parcel and the area surrounding the parcel.

SECTION 12. Section 561-241 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-241. Certificate of completion and compliance.

Within fourteen (14) days after completion of a land alteration for which a drainage permit was required and relative to which a certified plan was required to be filed pursuant to section 561-224, a registered professional engineer, land surveyor or architect, engaged in storm drainage design, shall execute and file with the ~~department of public works~~ division of compliance a certificate of completion and compliance. Such certificate shall be in the following form:

CERTIFICATE OF COMPLETION AND COMPLIANCE

Address of premises on which land alteration was accomplished _____

Inspection Date(s): _____ Permit No. _____

Relative to plans prepared by: _____ on _____, 9_____.

I hereby certify that:

(1) I am familiar with drainage requirements applicable to such land alteration (as set forth in Chapter 561 of this Code); and

(2) I have personally observed the land alteration accomplished pursuant to the above-referenced drainage permit; and

(3) To the best of my knowledge, information and belief, such land alteration has been performed and completed in conformity with all such drainage requirements, except _____

Signature _____ Date _____

Typed or Printed Name _____ Phone _____

(SEAL)

Business Address _____

Surv. _____ Eng. _____ Arch. _____ Indiana Registration No. _____

SECTION 13. Section 561-251 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-251. General authority for investigations and inspections.

(a) The power to make investigations and inspections of land alterations shall be vested in ~~both the director and~~ the administrator of the division of ~~permits~~ compliance and his authorized representatives.

(b) Investigation and inspection of land alteration may be made at any time by going upon, around or about the premises on which the land alteration has occurred.

(c) Such investigation and inspection may be made either before, during or after the land alteration is completed, and it may be made for the purposes, among others, of determining whether the land alteration meets drainage requirements and ascertaining whether the land alteration has been accomplished in a manner consistent with plans and specifications or a certificate filed pursuant to section 561-241.

(d) Efforts to afford an opportunity for investigation and inspection of the land alteration shall be made by persons working on or having control of the land alteration, including making available a copy of plans and specifications submitted to obtain a drainage permit.

SECTION 14. Sections 561-262 and 561-263 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-262. Revocation of permits.

(a) The ~~director~~ administrator of the division of compliance may revoke a drainage permit where the application, plans or other supporting documents required by section 561-223 reflect either:

(1) A false statement or misrepresentation as to material fact; or

(2) Lack of compliance with drainage requirements; or

(3) Failure to comply with the requirements of section 561-221, 561-222, 561-223, 561-224, 561-225 or 561-227; or

(4) Failure to post bond, execute covenants or dedicate easements as required by the ~~director~~ administrator of the division of compliance pursuant to ~~section 561-241, 561-242 or 561-243~~ sections 561-231, 561-232 or 561-233 of the code.

(b) This sanction shall in no way limit the operation of penalties provided elsewhere in this division.

Sec. 561-263. Stop-work order.

(a) Whenever ~~the director or~~ the administrator of the division of ~~permits~~ compliance or his authorized representative discovers the existence of any of the circumstances listed below, he is empowered to issue an order requiring the suspension of the land alteration. The stop-work order shall be in writing and shall state to what land alteration it is applicable and the reason for its issuance. One (1) copy of the stop-work order shall be posted on the property in a conspicuous place and one (1) copy shall be delivered to the permit applicant, and if conveniently possible to the person doing the land alteration and to the owner of the property or his agent. The stop-work order shall state the conditions under which land alteration may be resumed. A stop-work order shall be issued if:

(1) Land alteration is proceeding in an unsafe manner; or

(2) Land alteration is occurring in violation of a drainage requirement and in such manner that if land alteration is allowed to proceed, there is a probability that it will be substantially difficult to correct the violation; or

(3) Land alteration has been accomplished in violation of a drainage requirement and a period of time which is one-half (1/2) the time period in which land alteration could be completed, but no longer than fifteen (15) calendar days has elapsed since written notice of the violation or noncompliance was either posted on the property in a conspicuous place or given to the person doing the land alteration, without the violation or noncompliance being corrected; or

(4) Land alteration for which a drainage permit is required is proceeding without a drainage permit being in force. In such an instance, the stop-work order shall indicate that the effect of the order terminates when the required drainage permit is obtained.

(b) This sanction shall in no way limit the operation of penalties provided elsewhere in this division.

SECTION 15. Section 561-266 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-266. Enforcement of covenants.

(a) Any person who violates a covenant required under section ~~561-242~~ 561-232, and/or the owner of any parcel of land who permits such a violation upon land owned by him or her, may be notified in writing by ~~the director, or by~~ the administrator of the division of ~~permits of the department of metropolitan development~~ compliance, that a violation exists, and shall be given a reasonable period of time in which to correct such violation. The notice shall specify the nature of the violation with reasonable clarity.

(b) If the person responsible for a violation of a covenant required under section ~~561-242~~ 561-232, or the owner of the land upon which such violation exists, fails to correct the violation in a reasonable time in accordance with the requirements of the notice described above, the City of Indianapolis shall have the

authority, through ~~the department of public works or~~ the division of ~~permits of the department of metropolitan development~~ compliance, to correct the violation at its expense and to place a lien on the land whereupon the violation was so corrected for the recovery of any and all expenses caused to the city for effecting such correction.

SECTION 16. Sections 561-271 and 561-272 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-271. Variance procedure.

(a) The ~~director personally or, in his absence, an employee of the department of public works designated by the director~~ administrator of the division of compliance, after consultation with the engineering division of the department of public works, shall have the power to modify or waive any minimum drainage standard found in Article III of this chapter or any regulations promulgated by the board of public works pursuant to Article III of this chapter. The ~~director or his designate~~ administrator may, but is not required to, grant such a modification or waiver if an applicant for a drainage permit makes a substantial showing:

(1) That a minimum drainage standard regulation is infeasible or unreasonably burdensome; and

(2) That an alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum drainage standards and regulations.

(b) The request for a variance together with supporting information shall be made in writing to the ~~director or his designate~~ administrator who shall make a decision within twenty (20) days and file a copy of his decision with the board of public works.

Sec. 561-272. Appeals.

An applicant may appeal to the board of public works the decision of the ~~director or his designate~~ administrator of the division of compliance denying or partially approving a requested variance. The appeal of the ~~director's or his designate's~~ administrator's decision shall be filed with the board within twenty (20) days of the decision. An applicant may cause the variance request to be scheduled before the board of public works in the instance where the ~~director or his designate~~ administrator has failed to make a decision for a period of twenty (20) days after the written request for a variance. The board shall hear the request for the variance de novo at a regular meeting and in making a decision shall apply the standards set forth in section 561-271.

SECTION 17. Section 561-283 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 561-283. Payment of fees; refunds.

(a) Fees for drainage permits shall be collected by the ~~department of public works~~ division of compliance, acting on behalf of the city controller.

(b) A permit fee paid under this chapter shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued and was in force at the time the second permit was applied for and issued.

SECTION 18. Section 611-302 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 611-302. Definitions.

(a) The terms used in this article shall have the meanings ascribed to them in IC 9-22-1-2.

(b) In addition to the definition of "officer" contained in I.C 9-9-1.1-2, "officer" shall also mean ~~a member~~ members of the department of public works and the division of compliance of the department of metropolitan development who ~~is~~ are authorized to impound vehicles.

SECTION 19. Section 621-104 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 621-104. Authority of directors of public safety and ~~capital asset management~~ public works to modify this article in an emergency.

Whenever any provision of this Code or other ordinance of the city shall designate and specify that it shall be unlawful for the owner, driver or operator of any vehicle to park or stop such vehicle, or to permit the vehicle to be parked or to stand upon any designated and specific streets or portions of streets within designated or specified times, the directors of the departments of public safety and ~~capital asset management~~ public works, deeming an emergency to exist, shall declare the emergency and shall jointly modify, change and amend the specified hours and times to which the restriction of the provision of this Code or other ordinance shall apply; and shall cause signs giving notice of the hours and times designated and specified by such order to be placed and maintained upon and along such streets and portions of streets by the department of ~~capital asset management~~ public works. No such regulation or order shall be effective unless such signs are in place upon and along the streets and/or portions of streets so specified and designated.

SECTION 20. Section 645-112 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-112. Definitions.

(a) The following terms and phrases when used throughout this Article I of Chapter 645 shall have the meanings ascribed to them in this section:

~~(1)~~ *Article* means this article of this Code.

~~(2)~~ *Director of the department of public works* means such director and any person to whom such director specifically delegates the powers under this Chapter 645.

Division of compliance means the division of compliance of the department of metropolitan development.

~~(3)~~ *Effective date* means the date upon which this article is considered adopted pursuant to IC 36-3-4-14.

~~(3)~~ *Entity* means a corporation, partnership, limited liability company, association, firm, other entity, and any governmental agency, authority, board, agency and department.

~~(4)~~ *Facilities* mean, including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, conductors, lines, mains, vaults, appliances, attachments, equipment, structures, manholes, and other like equipment, fixtures and appurtenances used in connection with transmitting, receiving, distributing, offering, and providing utility services, cable television, communications, signaling, electricity, water, steam and other services or functions.

~~(5)~~ *General management costs* means the management costs for:

a. Registration and permit administration;

b. Management of the public rights-of-way, including costs associated with the implementation and administration of the ordinances and policies of the consolidated city;

c. Project management, including personnel costs and consulting expenses associated with coordinating utility and public right-of-way projects, design, inspection, testing, construction management, planning, and engineering, as well as restoration or remedial work required for inadequate work of an occupant to the extent that such inadequate work cannot be identified to a specific occupant or the occupant to which such inadequate work can be identified is insolvent;

d. Public right-of-way engineering;

e. Land acquisition for public right-of-way, including but not limited to appraising, title work, negotiating, costs of litigation, mediation and settlement, consultants, witnesses and attorneys fees;

f. Mapping the public rights-of-way and coordinating mapping of all occupants of the public rights-of-way, including the costs of layout, materials and supplies, in order to verify occupation of the public rights-of-way;

g. Geographic information system costs incurred after the effective date with respect to facilities installed in the public right-of-way, including the costs of automated mapping, computer and technical services, input of data, coordination and maintenance of the base map, personnel, software and equipment;

h. Administrative overhead, including allocation of administration, personnel, fiscal and information systems costs;

i. Application development and data conversion and maintenance, including necessary software development to provide for the integration of utility data into the geographic information system for viewing, querying and report generation;

j. Legal services to develop, interpret, implement, enforce and defend the ordinances, policies and procedures of the consolidated city regarding the public rights-of-way; and

k. Maintenance of a roadway inventory system, including maintenance of a pavement management system and inventory of roadway surface condition ratings to determine maintenance needs and schedules.

~~(6)~~ *Management costs* means "general management costs" and "specific management costs" that are direct, actual and reasonably incurred costs of the consolidated city in managing the public rights-of-way.

~~(7)~~ *Municipally-owned utility facilities* means any facilities owned by the consolidated city, or any division, department, bureau or agency thereof, including the utilities department and the department of public works, and for which a user fee or charge is made or collected by or on behalf of such owner.

~~(8)~~ *Occupant* means any person or entity who owns any facilities occupying the public rights-of-way. If the owner of any facilities leases or licenses such facilities exclusively to another person or entity and if the lease or license so provides and a copy of such lease or license is filed with the department of public works, then the lessee or licensee thereof shall be deemed the "occupant" of such facilities for purposes of this article.

~~(9)~~ *Occupy* (and the various forms of such word, such as occupying, occupied, etc.) means to install, construct, maintain, operate or own any facilities in the public rights-of-way.

~~(10)~~ *Person* means an individual or natural person.

~~(11)~~ *Public easement* means any easement owned or controlled by the consolidated city and established, acquired, dedicated or devoted to public utility purposes, including the area above and below such easements.

~~(13)~~ *Public right-of-way* means any travelled way and/or any public easement.

~~(14)~~ *Public utility* shall have the meaning ascribed thereto in IC 8-1-2-1(a).

~~(15)~~ *Registrant* means any entity or person who is required by this chapter to file with the board of public works a registration statement.

~~(16)~~ *Regulation* is defined in section 102-14 and, as used in this article, includes any regulation adopted by the board of public works pursuant to this article in accordance with section 645-151, promulgated in accordance with Chapter 141 of the Code, and approved by the city-county council of the consolidated city.

~~(17)~~ *Specific management costs* means the management costs for:

a. Construction, maintenance, repair and restoration of the public rights-of-way to the extent not included as a general management cost above, including, without limitation, the inspection of job sites and restoration projects as well as restoring work inadequately performed after providing notice and an opportunity to correct the work; and

b. Implementation and administration of this Chapter 645 and any ordinance that ensures that an occupant adequately restores the public right-of-way to the public right-of-way's original condition and remaining life.

~~(18)~~ *Thoroughfare* means that portion of any public right-of-way that is included in the Marion County Thoroughfare Plan.

~~(19)~~ *Travelled* way means any highway, street, alley, sidewalk or other public right-of-way for motor vehicle or pedestrian travel under the jurisdiction or control of the consolidated city, including any areas within any public right-of-way which may be unpaved and the unoccupied area above and below such rights-of-way.

~~(20)~~ *Utilities department* means the department of public utilities of the consolidated city created under IC 8-1-11.1-1.

(b) The terms public easement, public rights-of-way, travelled way and thoroughfare do not include:

(1) Any land or interest in land designated as a "green way" by Indy Parks; or

(2) The airwaves above same as those airwaves are used for cellular or other nonwire telecommunications or broadcast services.

(c) Definitions of the following terms used in this chapter are defined in other provisions of the Code and apply to this article:

(1) *Code* is defined in section 102-7.

(2) *Regulation* is defined in section 102-14.

SECTION 21. Section 645-322 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-322. Duties and responsibilities of the ~~department of public works~~ division of compliance.

(a) The ~~department of public works ("department")~~ division of compliance shall be responsible for controlling all activities and work performed by any person, partnership, corporation or other entity, including departments, divisions, agencies or boards of the city, in, on, under and over public rights-of-way under the jurisdiction of the city ("public rights-of-way") and for enforcing compliance with the provisions of regulations adopted by the public works board ("board") pursuant to this article.

(b) The ~~department~~ division of compliance, after consultation with the engineering division of the department of public works, shall recommend to the board proposed regulations to be adopted by the board.

SECTION 22. Section 645-324 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-324. Permit required for work in right-of-way; enforcement.

(a) Except as otherwise provided in subsections (b) and (c) of this section, it shall be unlawful for any person, partnership, corporation, or other entity, including departments, divisions, agencies or boards of the city to perform any work, including, but not limited to, cutting, drilling, digging or excavating in, on, over or under a public right-of-way without first having obtained a permit from the ~~department~~ division of compliance. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars ($100.00), and each day that an offense continues shall constitute a separate violation. The city controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~department of public works~~ division of compliance.

(b) In the event an emergency arises that affects the health and safety of the public or requires the restoration of a utility service and such an event occurs at a time other than normal business hours for the ~~department~~ division of compliance, work may be performed in, on, over or under the public right-of-way without first obtaining a permit. If such event were to occur, the person, partnership, corporation or other entity performing such work must file for a permit from the ~~department~~ division of compliance on the first business day following the commencement or performance of the work.

(c) Notwithstanding the requirements of subsection (a), no permit shall be required for work in, on, over or under a street, (i) which is located within a subdivision platted after January 1, 1992, and (ii) which has not been accepted by the board in accordance with section 691-129 of this Code.

SECTION 23. Sections 645-421 and 645-422 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-421. Permit required; enforcement.

(a) It shall be unlawful for any abutting owner to alter, remove or cut any grassplot, sidewalk, the pavement of the street or the curb adjacent thereto, or to excavate in a street, for the purpose of locating or constructing any private or commercial driveway or roadway for vehicles to cross over such grassplot or sidewalk and to afford access to his premises, without first obtaining a permit therefor from the ~~board of public works~~ division of compliance.

(b) A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars ($100.00), and each day that an offense continues shall constitute a separate violation. The city controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~department of public works~~ division of compliance.

Sec. 645-422. Temporary driveways.

A temporary driveway for use in connection with the removal or construction of buildings and excavations, or other work thereon, shall be permitted at any place in such manner and for such length of time as may be authorized by the ~~board of public works~~ division of compliance.

SECTION 24. Sections 645-427 and 645-428 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-427. Voidance of permit upon change of use or application for building permit for adjacent premises.

(a) A permit granted pursuant to this division for the cutting of a curb, grassplot or sidewalk adjacent to any street for the purpose of locating or constructing any private or commercial driveway or roadway for vehicles to cross over any grassplot or sidewalk or to afford access to adjacent premises shall automatically terminate upon a change in the business usage of the premises, regardless of how slight or minor the change may be. Also, upon the application of any person for a building permit upon any portion of adjacent premises to which access is allowed by virtue of the permit issued pursuant to this division for a curb cut, such permit shall automatically terminate at the time of application for the building permit.

(b) The change of business usage or upon the application for a building permit, and the subsequent termination of a curb cut permit, as provided in subsection (a) shall subject the person owning or using the adjacent premises to the penalties for violation of this division just as though no permit had been issued for the curb, grassplot or sidewalk cut.

(c) In the event the person owning or using such premises at the time of the change in business usage or at the time of the application for a building permit, or the new owner or lessee, if any, shall immediately petition the ~~board of public works~~ division of compliance for approval to retain the permit issued pursuant to this division, and the person complies with the decision or orders of the ~~board of public works~~ division of compliance regarding modification, change, alteration or elimination of the existing curb, grassplot or sidewalk cut, such person shall not be in violation of this division.

Sec. 645-428. Restoration upon abandonment.

(a) When any private or commercial driveway or roadway has been abandoned or is no longer used for a driveway or roadway, the ~~board of public works~~ division of compliance may order any owner or owners of real estate abutting such driveway or such roadway to restore, construct or reconstruct any grassplot or sidewalk, or the pavement of the street or the curb adjacent thereto, which has been altered, removed or cut for the purpose of locating or constructing the private or commercial driveway or the roadway to at least as good condition as the grassplots, sidewalks, street pavements and curbs adjoining such driveway or the roadway. The ~~board of public works~~ division of compliance shall mail a written notice of the order to the owner or owners at their last and usual places of residence which are known to the board or, if no such places of residence are known, to the address of the real estate abutting the driveway or the roadway. Within sixty (60) days after the mailing of such notice or within such longer time as may be stated ~~by the board~~ in the notice, the owner shall complete all work required by the order in accordance with the provisions of this section, and failure to do so shall constitute a violation of this division.

(b) Should the restoration, construction or reconstruction ordered pursuant to subsection (a) not be completed within the time required, the ~~board of public works~~ division of compliance may ~~order~~ request such restoration, construction or reconstruction to be done by the ~~director~~ department of public works or by contract, and the entire cost thereof, together with such additional charge as may be made by the ~~board~~ division of compliance, in an amount not to exceed one hundred dollars ($100.00), may be collected by action therefor against the owner or owners; or the board, in lieu of and in addition thereto, may file and certify the cost and charges to the controller, who shall file a statement thereof with the county treasurer, who shall place such charges upon the tax duplicate, whereupon it shall constitute a lien upon the real estate and be charged and statements rendered therefor and be collected the same as taxes. No notice of any such charge so assessed shall be required, but each such person so liable shall be chargeable with notice thereof, as shown by the public tax and other records.

SECTION 25. Sections 645-431 and 645-432 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-431. Permit required; enforcement.

(a) Before any person, pursuant to a private contract therefor and for the benefit and use of his abutting real estate, shall make any cuts into the pavement or in any other portion of any improved street, sidewalk, curb or public place to excavate therein or to excavate in and beneath the surface of any unimproved street for the construction, reconstruction, alteration or repair of any driveway, sewer or sidewalk, or for the installation or repair of connections of private sewers, drains or public utility service lines located upon and serving his abutting real estate with any public sewer or public utility service lines located in the public way or place pursuant to any provisions of this Code, he shall first obtain a permit therefor as provided in this division.

(b) A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars ($100.00), and each day that an offense continues shall constitute a separate violation. The city controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~department of public works~~ division of compliance.

Sec. 645-432. Permit application.

Any person desiring a permit required by this division shall cause an application therefor to be filed with the ~~board of public works, at the office of the director~~ division of compliance. The application shall be filed by the owner of such premises, or by his legal representative or agent, or by the contractor or other person concerned, or as may be otherwise required by this Code or by any statute.

SECTION 26. Sections 645-434 and 645-435 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-434. Scope of permit.

A permit required by this division may be for the work to be done under one (1) specific contract, or may be issued to a person generally engaged in such work, to whom has been or may be issued a general permit for not exceeding two (2) years, without charge therefor, which shall be covered by one (1) performance and maintenance bond, to be kept effective for all such work done by him during such entire period, subject to the right of the ~~board of public works~~ division of compliance to revoke the general and any special permit at any time, and subject also to the requirements of obtaining separate special permits for each instance of any such work being done by him under any private contract and the payment by him of the separate permit fees required therefor by this division.

Sec. 645-435. Indemnification agreement; liability insurance.

A person doing work under any special permit issued pursuant to this division shall also agree to indemnify the city and any party in interest under the contract against all claims, demands, actions, judgments, losses and expenses arising from any injuries to any person or damage to any property resulting from the work or from any conditions created thereby in the street or public place. The permittee shall present a certificate to the ~~board of public works~~ division of compliance that there is in effect a standard public liability insurance policy by a company authorized to engage in such business in the state, with such limits of payment as the board may require, but not less than fifty thousand dollars ($50,000.00) for injury to one (1) person and not less than one hundred thousand dollars ($100,000.00) for injuries to more than one (1) person and not less than ten thousand dollars ($10,000.00) for damages to property. The insurance policy, an extension thereof or

a new policy shall be kept in effect during the entire specific period for which a performance and maintenance bond is in effect and for which a general permit has been granted to any such person; or for the time any work is done and maintained under a single contract and any specific permit and bond therefor.

SECTION 27. Sections 645-438 through 645-443 of the "Revised Code of the Consolidated City and County," inclusive. hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-438. Surety bond.

(a) Any person doing any kind of work subject to this division under private contract and permit, unless then so qualified and having a general permit and performance bond in effect, shall execute and file with the ~~board of public works~~ division of compliance, before beginning any such work, a bond for the proper performance and maintenance of such work, with a surety approved by the board, in the penal amount of not less than two thousand five hundred dollars ($2,500.00) for a single street cut or twenty-five thousand dollars ($25,000.00) for unlimited multiple street cuts in any year, for the use and benefit of the city or of any party in interest under such contract.

(b) The bond required by subsection (a) shall continue to be effective for and applicable to each and all special permits and to any continuing general permit issued therewith to the principal for any such work, under private contract, for a period of two (2) years from the date of the bond, and for such further periods as the bond and any general continuing permit may thereafter be extended by endorsements thereon of the parties thereto and as so approved by the ~~board of public works~~ division of compliance, which ~~board~~ division may require increases in the penalty of the bond and a new or additional surety at any time, or may cancel any permit issued pursuant to this division. The bond shall be subject to all relevant provisions of this Code and of any other ordinances of the city and of all relevant statutes. Such bonds shall be conditioned upon such person obtaining and renewing an annual license from the city to engage in such business, where so required for each year during the two (2) calendar years, or for such other period of years for which the bond and general permit may be extended; it shall further be conditioned upon the permittee's discharge of his duties and compliance with all provisions of this Code and of any other city ordinances, rules and regulations at any time in force in relation to the mode, manner or form in which the work shall be done and maintained by him; and it shall further be conditioned that he will indemnify and save harmless and free from all loss, damage, expenses, claims, demands and judgments, the city and any party in interest under such contract, arising from any negligence of the person or of those employed by him in doing and maintaining the work, or in furnishing and using any materials therefor, or in failing to comply with all requirements of the director of metropolitan development, the division of ~~permits, the division of code enforcement and the director of public works~~ compliance, and with all statutes, provisions of this Code or of any later ordinance, relating to or controlling such work.

(c) The bond provisions and conditions established in subsection (b) shall be a part of every bond required by subsection (a) and shall be binding upon such obligor and all other persons, whether so expressed in or omitted from any such bond.

(d) The ~~board of public works~~ division of compliance, in its discretion, may change or add to any bond conditions, or change the form of the bond to make it include and comply with such requirements. The ~~board~~ division of compliance may authorize or require renewals thereof and a sufficient surety as often as necessary to insure the completion of the work, as approved by the ~~director of public works and accepted by the board~~ administrator of the division of compliance, and its proper maintenance for one (1) year, or other period prescribed by the ~~board~~ division of compliance, after such acceptance. The board may at any time adopt any general rules and regulations or issue any special orders which it deems necessary to control all or any phases of such work and all other matters relating to the proper restoration and maintenance of any street or public place so involved. Any bond previously executed shall be controlled by any such changes in its conditions and form, when the principal and surety are notified thereof by the ~~board~~ division of compliance and do not object thereto. If an objection in writing is filed with the ~~board~~ division of compliance, such changes shall not apply to any such bond while it remains in effect.

(e) As an alternative to the execution of any performance and maintenance bond required by subsection (a), the ~~board of public works~~ division of compliance may require, in any instance, the deposit with the ~~board~~ division of cash or a certified check in such amount as it deems necessary for the estimated cost of doing and maintaining the work properly, to insure the full compliance of such person with all the requirements of the ~~board~~ division of compliance and of all the conditions similar to those applicable to the bond.

Sec. 645-439. Plans and specifications.

Unless otherwise required or permitted by the ~~board of public works~~ division of compliance, all plans and specifications for the work relating to any commercial driveway constructed under private contract, but not relating to any private driveway, shall be prepared and certified by a professional engineer registered by the state; and the general plans and specifications of the board for acceptance of street improvements by the city as prescribed in this article, so far as applicable to any such work, shall also control the work done under any private contract and permit therefor.

Sec. 645-440. Excavations affecting drainage or grade.

No person shall dig any hole or make any excavation in any street or public place which interferes with drainage when the work has been completed or thereby changes the grade, contour and level of any street or public place in the city below the existing surface or below the level of the grade as it has been lawfully established by the city before or at such time, unless the work and changes have been authorized by the ~~director of public works, acting under the directions of the board of public works~~ division of compliance after consultation with the engineering division of the department of public works.

Sec. 645-441. Protection of excavations.

(a) Any person cutting a pavement, curb, sidewalk or driveway, or digging any hole in or excavating in any street, sidewalk or public place, for any purpose authorized by the city, or acting in an emergency repair or under a public or private contract, shall erect and maintain at all times around any such place, hole or excavation suitable and sufficient barricades for the protection of the public. When such cuts, holes or excavations are made in or across sidewalks or driveways, or at other places used by pedestrians, bridges, platforms or covers shall be erected over them sufficient to serve for the safe passage of the public, in addition to placing and maintaining, where needed, such barricades.

(b) All places for which protection is required by subsection (a) shall be properly lighted at night, as required by the city for any other work in the streets, under either public or private contract, and by the city safety regulations, which lights shall be maintained from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise during each night, until all such work is fully completed and the conditions of danger are fully removed.

(c) The guarding and protection of excavations, cuts or holes by any person causing such conditions shall be a continuing duty and shall be subject to the supervision, directions and orders of the ~~director of public works~~ division of compliance, the police and the firemen.

(d) The requirements of subsections (a) and (b) shall apply to all other provisions of this Code relating to any similar hazards created by any kind of work being done by or for any department or official of the city or by any person in any street, public place or ground, which is at any time either owned by or under the control of the city, or is situated anywhere within its jurisdiction.

Sec. 645-442. Restoration of pavement.

(a) Whenever any portion of a public way is excavated by any person authorized to do so, the person so doing any such work shall also restore such place to its former condition, whenever so required by the city, acting under the directions and orders of the ~~director of public works~~ administrator of the division of compliance.

(b) When so ordered, a permittee under this division shall remove any portion of the pavement or other surface to the extent necessary, and the ground or materials used for relaying the base of the torn-up pavement or surface of the street shall be thoroughly wet rolled and tamped, and otherwise prepared so that the new pavement or surface may be laid and maintained thereon uniformly and in as good condition as it was before being torn up. All such work shall be done according to the city's standard specifications therefor, or according to such added specifications as the ~~director of public works~~ administrator of the division of compliance may require.

(c) When any pavement or surface of any street is cut, torn up, disturbed or excavated in any manner, the person doing so shall restore such pavement or surface as soon as possible, if ordered to do the work, to at least its former condition and in accordance with the provisions of this article and the city's general specifications therefor, and subject to the orders and approval of the ~~director of public works~~ administrator of the division of compliance.

(d) In all cases subject to this section, the city may elect to do all or any part of such work by its own forces or by other persons, and charge the cost therefor to the person to whom an excavation permit was

issued pursuant to this division, who shall pay such costs upon demand by the city. The city, by the ~~board of public works~~ division of compliance, shall notify each such person of its election in respect to the work it proposes to do, or the city may so elect by a general order of the board of public works, applicable to all such instances until its further order thereon.

Sec. 645-443. Penalty for hiring unqualified contractor.

It shall be unlawful for a person to execute a contract to have work subject to this division done by a person who is not so qualified and authorized to engage in such work under all the requirements of this Code, and to fail to ascertain such fact by inquiry at the office of the ~~director of the department of public works~~ division of compliance. The fine imposed for a violation of this section shall not be less than one thousand dollars ($1,000.00).

SECTION 28. Section 645-514 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-514. Use of plots between sidewalk and curb.

(a) The owner, agent, occupant or lessee of any premises, if first applying for and obtaining the approval of the ~~board of public works~~ division of compliance and the board of parks and recreation, may use the plot between the curb and sidewalk for grass or a tree row in front of such premises, lying anywhere between the curbline and the property line and not used by the city for the paved part of any sidewalk or street, and may beautify and improve all or any part of such plot of ground by sodding it, sowing grass seed therein, or by setting out or growing therein plants or flowers, as may be authorized and so long as no obstruction of the roadway or sidewalk results.

(b) Any person desiring so to use and beautify the ground between the sidewalk and the curb shall make written application for a permit therefor to both the ~~board of public works~~ division of compliance and the board of parks and recreation, showing the character and extent of the use or enclosure and the manner of the proposed improvement; and if satisfied with the propriety thereof, such ~~boards~~ division and board may grant and issue such permit, but the approval of both ~~boards~~ the division and the board shall be required.

(c) Whenever the plot subject to this section has been used, sown, sodded or beautified in accordance with the permit required by subsection (b), such person shall maintain it in good order, and no person, without authority from such boards, shall walk upon or across the plot, or pluck, cut or injure in any way any flower or plant thereon, or purposely remove, damage, cut, mark or injure in any way such plot or anything so planted or growing therein.

(d) Such use of the ground and any permit therefor shall remain subject to the control of the ~~board of public works~~ division of compliance and the board of parks and recreation, as their respective jurisdiction authorizes, and such permit may be revoked at any time, after notice to the permittee fixing a time to vacate such space, and any continued use of the plot thereafter shall be unlawful.

(e) When any plot of ground subject to this section is not used by obtaining a permit therefor, the person owning or controlling the premises, unless the city elects to do so, shall keep such plot free of a tall growth of weeds or rank vegetation and any grass growing or sown thereon shall be mowed at reasonable intervals by such person so as to maintain the plot in an orderly and sightly appearance and condition.

(f) It shall be unlawful for any person to place rubbish, trash or wastes upon any plot subject to this section, or on any other part of the street, except as permitted and necessary to be so placed for collection thereof by the city; or for any person to operate any vehicle or ride or drive any animal upon or across such plot, or permit any animal, such as a horse, cow or similar large animal, to graze or walk upon any such plot or otherwise to damage or destroy it.

SECTION 29. Section 645-515 of the "Revised Code of the Consolidated City and County," regarding special charitable solicitation days on streets, hereby is REPEALED.

SECTION 30. Sections 645-518 through 645-521 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-518. Stringing wires across public ways.

It shall be unlawful for any person who is not a licensed electrician under this Code and who is not duly authorized to do so by the city to string any wires for use as radio or television aerial wires, or for any other

private purpose or use, across any street, alley or other public place in the city. No person shall place any such wires for any purpose without having a permit therefor from the ~~board of public works~~ division of compliance, except while acting as an employee of and for any public utility which has a permit as required by this Code.

Sec. 645-519. Permit for placing banners, signs or structures on streets.

No person shall place or use any banner, sign or structure for any purpose whatever on any street in the city where such sign or structure obstructs or tends to obstruct the use of the street or sidewalk, nor shall any banner, sign, structure or other thing be placed upon or strung over or across any street without first obtaining a special permit for such limited and temporary use from the ~~board of public works~~ division of compliance, subject to its further orders thereon.

Sec. 645-520. Earthen materials.

It shall be the duty of each person owning or occupying any premises adjoining a street or improved sidewalk, and doing any kind of work causing earth, dirt, materials or debris to be accumulated by or for him upon any portion of the street or sidewalk abutting such premises, to remove or cause the removal thereof within twenty-four (24) hours from the time of such accumulation, unless he obtains an extension of time therefor from the ~~board of public works~~ division of compliance. While such materials are allowed to remain at any such place, the person causing the obstruction shall provide proper barricades and lights therefor, as required for other such obstructions placed upon the public streets.

Sec. 645-521. Permit for bicycle or motorcycle racks on sidewalks.

No person shall erect, place or maintain any bicycle or motorcycle rack on any sidewalk or in the space between the property line and the roadway of any street, without first obtaining a permit therefor from the ~~board of public works~~ division of compliance. The permit may be issued, without charge therefor, under such terms and conditions as the ~~board~~ division deems advisable for the protection of the public and the interests of the city, and it shall be revocable by the ~~board~~ division at any time.

SECTION 31. Section 645-531 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-531. Permit for activity after district cooling system franchise agreement.

Notwithstanding the provisions of section 645-512 or section 645-546, after a franchise agreement has been granted by the city-county council for a district cooling system and subject to Article II of this chapter, the ~~department of public works~~ division of compliance, after consultation with the engineering division of the department of public works, may issue permits to the franchise holder for activity within the public rights-of-way located in the franchise district.

SECTION 32. Sections 645-542 through 645-548 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-542. Permit required.

No person shall hereafter use or change, for private purposes, any space on, over or underneath the surface of any public street, sidewalk or other public place in the city; or construct or maintain any structure thereon, bridge thereover, or tunnel thereunder; or disturb the sidewalk, curb or roadway on a public way; or use the space beneath any public way for the purpose of constructing, reconstructing, extending or maintaining any vault, cellar, areaway, structure, coalhole, trapdoor, stairway, elevator or other opening; or install or use any appurtenances thereto; without first obtaining a permit therefor from the ~~board of public works, after approval by the director of public works of such proposed construction~~ division of compliance.

Sec. 645-543. Permit not to be issued for permanent obstructions.

(a) No person shall build or place, or cause or permit to be built or placed, any stand, window, stairway, porch or other structure or obstruction of that type, designed for private use or business purposes, which extends into, over or on the street and sidewalk adjoining such premises, and which is owned or controlled and used by him, when such structure is permanent in character and occupies or uses any portion of the surface of the street.

(b) Any existing structure or obstruction prohibited by subsection (a) shall be removed when so ordered by the city, or the city may remove it at the expense of the owner.

(c) All applications for permits required by this division to build any structure of the type prohibited by subsection (a) shall be refused and rejected by the ~~board of public works~~ division of compliance. Temporary structures on the streets may be so located for special occasions and uses when permitted by the ~~board~~ division, subject to removal at any time on its order.

Sec. 645-544. Application for permit; approval.

An application for a permit required by this division shall be accompanied by any plans and specifications required by the ~~director of public works~~ division of compliance and by a sketch or diagram showing the gross measurements of the vault, bridge, tunnel or other structure to be constructed or changed, together with all openings in and uses of the surface over the proposed use and any other proposed changes in the existing use of the street to public place. The sketch or diagram and any plans and specifications shall be approved by the ~~board of public works and the director of public works~~ division of compliance before a permit is issued or any such work is commenced.

Sec. 645-545. Bond.

(a) Each applicant for a permit required by this division shall file with his application a public liability bond in the minimum sum of five thousand dollars ($5,000.00) for injury to one (1) person, fifty thousand dollars ($50,000.00) for injuries to more than one (1) person, and two thousand dollars ($2,000.00) for damage to property, with surety to be approved by the ~~board of public works~~ division of compliance.

(b) The surety on the bond required by subsection (a), if a natural person, shall own property in the aggregate value, over and above all encumbrances thereon, of twice the sum fixed in the bond.

(c) The bond shall be duly executed and shall be conditioned upon the agreement that the person to whom the permit is issued and his heirs, personal representatives, successors or assigns will save and keep the city free and harmless from any and all loss, damage, claims, demands, judgments and expenses arising from or out of the granting or use of such permit, or the construction or use of the space, structure, bridge, tunnel, vault, coalhole, trapdoor, stairway, elevator or other opening therein, or of any other structure or use maintained in connection therewith, and that the permittee will at all times maintain the public way or place, including the sidewalk over any such space or opening, as the case may be, and all structures built by him, in such condition that the public way or place and such structures at all times during the construction or repairs, or after any of the things aforesaid are completed, or such space is so used, will be maintained by him in good condition and repair and safe for public traffic and use; conditioned further for the prompt vacation and removal of any of the things so constructed and used, as authorized by the permit, and the restoration of such sidewalk and street, upon thirty (30) days' notice from the ~~board of public works~~ division of compliance, whenever in the opinion of the ~~board~~ division and unless otherwise inhibited by statute, it shall be necessary or advisable to have the use or any portion thereof vacated or removed in order to conserve the public safety or welfare, or to provide for the use of the space or any portion thereof for any public purpose, or for the use of any public utilities, or because of the construction of railway lines, wires or tracks, or of a subway or elevated structure for transportation purposes either on, under, over or adjacent to the public way or public place in which any privately used space or structure is located, or for the purpose of constructing, reconstructing, moving, erecting or maintaining any sewer, drain, conduit, pipe, tube, pole, wire, structure or other similar use because of the construction of such a subway, or elevated structure, or for any public use or any other public utility purposes; and conditioned further that the bond will be renewed and kept in full effect, with an approved surety, and a certificate of such fact kept on file with the ~~board of public works~~ division of compliance, so long as any private uses and structures are continued, and for the faithful performance and observance of all the terms and conditions of the permit and bond and of the various sections of this division and all other provisions of this Code and state law relating thereto.

(d) The bond required by subsection (a), if and when placed of record in the office of the county recorder, or respecting any person with actual notice thereof, shall constitute a covenant running with the land, and it shall be deemed and construed to include all the aforesaid conditions, regardless of their inclusion in or omission from the text of any such bond.

(e) Whenever the ~~board of public works~~ division of compliance determines that the sureties on any bond given pursuant to this section have become insufficient and so notifies the holder of the permit or his successor, a new bond for the permit shall be filed, or new sureties substituted, to be approved by the ~~board~~ division. Unless so filed within the time fixed by the ~~board~~ division, the permit shall be revoked and all uses and rights thereunder shall be terminated.

Sec. 645-546. Restrictions on permits for subsurface uses.

No permit required by this division shall be issued for the private use by any person of any space under the surface of the roadway and between the curblines of any improved public way or public place; such spaces shall be reserved exclusively for any necessary use of any such space by public utilities or public authorities. Any such existing uses under any roadways in the city may be vacated and removed by order of the ~~board of public works~~ division of compliance, whenever in its discretion the public safety and welfare so require.

Sec. 645-547. Exception to restriction.

Notwithstanding the provisions of sections 645-512 or 645-546, the ~~department of public works~~ division of compliance may permit Ogden Martin Systems of Indianapolis, Inc., to establish a steam line within the public right-of-way on Harding Street from one thousand (1,000) feet south of Raymond Street to Kentucky Avenue.

Sec. 645-548. Permit fees.

Fees for a permit required by this division shall be based upon the character of the use and the number of cubic feet occupied by the vault, space or other structure located on, under or above the surface of the public way or public place for which a permit is to be issued, and shall be determined as uniformly as practicable by the director of public works, varying from a minimum fee of five dollars ($5.00) for the issuance of each permit, plus additional fees varying from a minimum of ten dollars ($10.00) to a maximum of two hundred dollars ($200.00). The board of public works may fix such fees in each instance, or may adopt a general schedule for the various classes of fees, based upon engineering and construction costs in the city for similar kinds of work. No additional permit fees shall be charged, except where a new permit is required for the use of additional space, for minor alterations in the construction of or changes in any structure, coalhole, elevator or other opening, or variations in the plans, but not affecting the surface of the way, which were not enumerated in the original permit, if the board of public works approves such changes and waives further fees, or where the party to whom the original permit was issued has transferred his interest to another party as provided in this division. In case of such a transfer, however, the purchaser of the interest shall pay to the controller an additional five dollars ($5.00) for the issuance of a transfer of the permit.

SECTION 33. Section 645-553 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-553. Revocation of permits.

(a) All permits issued pursuant to this division shall be at all times subject to revocation, in whole or in part, by the ~~board of public works~~ division of compliance, whenever the ~~board~~ division, on its own motion or upon the recommendation of other city or state officials, shall consider it necessary or advisable to have any vault, space, opening or other use of any street authorized by any such permit, or any other use, to be removed and vacated in order to secure the public safety or so that it may be used for any public purpose, including uses by any public utilities, or because of the construction or maintenance of a subway or elevated structure for transportation purposes in, under or near the public way or public place in which the vault, space, opening, bridge or tunnel is located, or other use made of any street, or for the purpose of moving, constructing or maintaining rails, sewers, mains, conduits, pipes, tubes, wires, poles or other structures of any kind, because of the construction or maintenance of the subway or elevation for transportation purposes, or for any other public utility uses.

(b) No permit shall be issued under this division, except under the condition and the agreement of the party to whom the permit is issued that the vault or space, wherever so located, or any portion thereof, and all or any appurtenances thereto, or any other uses so required to be used for such public purposes, shall be vacated and removed within thirty (30) days after the ~~board of public works or the director of public works~~ division of compliance shall have given notice of revocation of the permit to continue such prior and existing uses, and that in case such party fails to vacate the space, vault or other use, or such portions thereof as are specified in the notice, the ~~board~~ division of compliance may revoke the further use and maintenance thereof and may cause the use to be vacated and removed and made secure, as ordered, at the expense of the party to whom the permit was issued, or it may enjoin and abate the use by appropriate action, and all expenses incurred or damages or judgments incurred or paid by the city, on account thereof shall be borne by such party and shall be paid to the city upon demand, or be recovered by action thereon.

(c) If any person who has secured a permit pursuant to this division shall fail or neglect to comply with any of the terms of this division or this Code at any time, the permit may be revoked by the ~~board of public works~~ division of compliance or by the mayor, and it shall be revoked by the ~~board~~ division of compliance in

all cases, unless otherwise provided by law, where the ~~board~~ division, in the exercise of its discretion, has determined that such revocation is proper or necessary for the public safety or welfare.

SECTION 34. Sections 645-555 through 645-560 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-555. Protection of underground utilities; restoration bond or deposit.

(a) No person shall use or alter the space under any sidewalk, street or public place in such a manner as to damage or interfere with any sewer, water pipe, conduit, wire or any other work or structure lawfully installed in the public way by any public authority or public utility, unless by the express consent of the ~~board of public works or other appropriate board~~ division of compliance after consultation with the engineering division of the department of public works, and of any such utility, under the conditions prescribed by them.

(b) No permit required by this division shall be granted until any utility affected has been notified and the applicant therefor has executed an approved indemnity bond or has paid to the ~~board of public works~~ division of compliance a sum of money which it deems sufficient to defray the cost and expense to the city and to any utilities affected by renewing, rebuilding, relocating or relaying all or any of such facilities so disturbed, and making the necessary connections therewith, if the holder of the permit fails to do so as approved by them.

(c) Every person damaging, altering or disturbing any underground utilities shall restore them at his expense and within the time fixed by the ~~board of public works~~ division of compliance to such condition as they were in prior thereto and as will meet the approval of the ~~board~~ division of compliance and of any such public utilities; and if and when so restored, the sum so paid to the ~~board~~ division of compliance or any balance unused shall be refunded. If the permittee fails to restore such underground facilities, the ~~board of public works~~ division of compliance shall cause them to be restored in a manner meeting its approval and that of such utility and the cost thereof shall be paid out of the deposit. If such cost exceeds the deposit, the person shall pay forthwith to the city any such excess.

Sec. 645-556. Procedure upon conveyance of premises.

(a) Any person to whom a permit has been issued pursuant to this division or who has given a bond for the occupation and use of space under, on or above any public way, place or sidewalk pursuant to a permit or a resolution of the ~~board of public works~~ division of compliance, and who has conveyed his interest in the premises for which the permit is issued, shall notify in writing the ~~board and also the director of public works~~ division of compliance of such conveyance, together with the name and address of the purchaser thereof.

(b) Upon giving the notice required by subsection (a), the person or his successor may secure from the ~~board of public works~~ division of compliance, on the recommendation of the ~~director of public works~~ administrator of such division, a permit to remove or close up any coalhole, stairway, elevator, structure, bridge, tunnel, opening or any other use maintained on, below or above the sidewalk or public way, and to restore the place and public way to a condition similar to the balance of the sidewalk, street or public place in front of the premises. Upon completion of the work, subject to the approval of the ~~board of public works and the director of public works~~ division of compliance, all liability under the bond theretofore given by such person shall cease and determine, except as to any acts happening or causes of action accruing prior to or during the removal or closing of all such openings or structures. If, however, the purchaser shall pay the permit transfer fee provided for by this division and also shall execute a new bond conditioned as aforesaid, a permit may be issued to the purchaser covering the continued use of and changes in the permitted use specified in the original permit, and it shall not be necessary in such event for the person to whom the original permit was issued to close up the opening or to terminate the use, but the filing of the new bond and the securing of a new permit by the purchaser shall act as a release of the original permittee for any future liability under the bond originally given by him, in like manner as if the opening had been closed or other things had been done by him according to the approval of the and the ~~board of public works~~ division of compliance, except as to any causes of action accruing prior to the filing of such new bond.

(c) A bond may not be required to be filed, in the discretion of the ~~board of public works~~ division of compliance, in cases where there are to be no further uses of any such structures and no openings of any kind are to be left and to remain in the sidewalk over the subsidewalk space, or where the vault used in connection with any opening does not exceed fifteen (15) feet in depth and the sidewalk over it is supported at all times as approved by the ~~director of public works~~ administrator of the division of compliance.

Sec. 645-557. Substitution of permit and bond.

Whenever any person holding a contract and permit issued pursuant to this division, which permit has been issued under the terms of any resolution of the board of public works previously in force, the conditions of which have been and are now being fully complied with, shall apply for a new permit under this division and shall desire to have the permit or contract previously entered into canceled, the ~~board of public works~~ division of compliance, upon issuing a new permit and approving a new bond, may cancel the old permit and bond as to any liability thereunder arising after the date of the issuance of the new permit and bond, but the prior contract and permit, and the bond given therewith, shall all remain in full force and effect as to all rights, obligations and liabilities accruing thereunder, including all amounts due the city for fees or anything else under the permit and bond up to the time of such cancellation.

Sec. 645-558. Protection of openings.

(a) Every opening for access to and use of any vault, coalhole, chute or other aperture which is made in the sidewalk over such subarea for the use of the premises, other than fixed gratings used only for light and air, shall be covered with a substantial, heavy iron lid or cover, having a rough surface and so placed, seated and maintained as to cover such opening and remain securely therein at all times when not removed for use of the area beneath. The entire construction of such coalholes, vaults and covers therefor shall be subject to the continued inspection, supervision and orders of the ~~board of public works and the director of public works~~ division of compliance so as to secure the safety of the public when passing over such covers and places.

(b) No person shall remove or place and leave insecurely, or cause, procure or permit to be removed or to be insecurely placed or left, so that it can be moved in its flange or seat or so as to tilt when stepped upon, any cover of any coalhole, vault, chute or other opening in or under any public way or public place. However, nothing in this subsection shall prevent the owner or occupant of the building with which such coalhole, vault, chute or opening is connected from removing the cover at any time for the proper purpose and use of such opening, either for repairs thereto or for removing or delivering anything therein, in case he then encloses and guards the opening or aperture and keeps it enclosed and guarded with a strong box or barrier at least twenty-four (24) inches high, firmly and securely made, and also places and maintains lights, when dark, as required for work on streets. During deliveries of anything through such opening, or during repairs thereto, some person shall remain stationed thereat to safeguard the same at all times while the cover is removed, and unless there at all such times, the cover shall be replaced.

(c) It shall be unlawful for any person owning or using any coalhole or vault, or any sidewalk lift, outside stairway, chute or other opening in any public sidewalk, to allow it to remain uncovered or opened, except while being repaired or while it is actually being used for the purpose of entrance or exit, or for the purpose of introducing or removing any article through such opening, and except while protected or guarded.

Sec. 645-559. Remedial action for structural safety.

Whenever any coalhole, vault, chute or elevator in or under any sidewalk, or any aperture constructed in any sidewalk for such use or any other purpose, is not covered or secured as required by this division or, in the opinion of the ~~board of public works or the director of public works~~ administrator of the division of compliance, is unsafe or inconvenient for public travel; or when any other type of such structures referred to in this division, located on, beneath or over any public way or place, becomes unsafe, the ~~board~~ division of compliance may order the opening to be placed in a safe condition as approved by it ~~and by the director of public works~~. If the repairs are not done within the time prescribed by such order, the ~~board~~ division of compliance may refer the matter to the department of public works to make the repairs and changes or, if necessary, ~~may~~ to remove the opening, and the expense thereof shall be charged against and collected from such owner or person in possession of the premises and of such appurtenances and accessories thereto.

Sec. 645-560. Care of sidewalks.

Every person using any portion of the space under any sidewalk shall at all times keep the sidewalk securely supported and in good condition and repair in any portions connected with the subsurface uses, and clear and free from all dirt, filth or other obstructions or encumbrances arising from such uses. All repairing and cleaning shall be done in accordance with the regulations of the board of public works or other city authorities, and the ~~board~~ division of compliance may ~~order the revocation of~~ revoke the permit for failure to comply with any provision of this section.

SECTION 35. Sections 645-571 through 645-577 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-571. Definitions.

For the purpose of this division, the following words shall have the definitions ascribed to them in this section.

Department means the department of public works.

Division of compliance means the division of compliance of the department of metropolitan development.

Encroachment means an intrusion by an inanimate object on, under, over, or upon the public right-of-way. However, the following intrusions shall not be deemed to be an encroachment:

(1) Motor vehicles, bicycles, and similar devices that are regularly moved from place to place;

(2) Landscaping for which a permit has been secured pursuant to Chapter 701 of this Code;

(3) Temporary signs advertising the sale of real estate that comply with zoning restrictions;

(4) Pipes, conduits, wires, fiber optic lines, antennae, poles, ducts, and other like fixtures and appurtenances that are owned and used by a public utility and that are used in connection with transmitting, receiving, distributing, offering, and providing utility services and which are registered in accordance with Chapter 645 of this Code; and

(5) Pipes, conduits, wires, fiber optic lines and other like fixtures and appurtenances that are owned by the landowner and are used to receive utility services from a public utility or from the City of Indianapolis.

If one (1) or more encroaching objects are attached to and from a part of the same structure or thing, taken collectively, they shall be considered as only one (1) encroachment.

Sec. 645-572. Jurisdiction; all encroachments regulated.

(a) The ~~department of public works~~ division of compliance has the authority to license any encroachment.

(b) All encroachments are regulated by this division, including types of encroachments that are exempted by a regulation adopted under section 645-581 from the requirement that a written license document be secured.

(c) Notwithstanding the preceding portions of this section, an encroachment of more than one (1) year may not be licensed if said encroachment is subject to the grant of a franchise as authorized elsewhere in this Code or is the subject matter of a lease or operating agreement between the city and a third party.

Sec. 645-573. When license required.

No person shall maintain any encroachment without first:

(1) Having received a written license document therefor from the ~~department of public works~~ division of compliance in accordance with the provisions of this division;~~,~~ or

(2) Complying with the provisions of section 645-581 for a license allowed without documentation.

Sec. 645-574. Petition for license.

Any person who desires to maintain an encroachment shall file a petition with the ~~department of public works~~ division of compliance on such forms as the ~~department of public works~~ division of compliance may prescribe, requesting that the ~~department~~ division approve a license permitting the encroachment, specifically identifying the property or properties affected, and outlining the circumstances giving rise to the need for the license.

Sec. 645-575. Investigation of petition; recommendation as to license.

(a) Upon the filing of a petition for a license required by this division, the ~~department of public works~~ division of compliance shall cause an investigation of the request and of the circumstances enumerated in such

petition to be made. Upon completion of the investigation, such ~~department~~ division shall either grant or deny the license and if granted, specify the term and conditions of the license.

(b) No person (even a person who holds property rights in the right-of-way or in property abutting the right-of-way) has any property right to an encroachment license.

Sec. 645-576. Conditions of license.

(a) In granting any license under this division, the ~~department of public works~~ division of compliance may attach such reasonable conditions to the license as it determines to be in the interest of the public health, safety and welfare.

(b) No property right vests in the holder of an encroachment license through the granting of the encroachment license, irrespective of the length of the term of the license. The holder of the encroachment license has no property right to the continued existence of the encroachment license or the renewal of the license.

Sec. 645-577. Term.

All license documents issued by the ~~department of public works~~ division of compliance, unless granted for a lesser determinate period, may be for a term of up to twenty (20) years dating from the date of their issuance.

SECTION 36. Sections 645-579, 645-580 and 645-581 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-579. Application and license fees.

(a) Each petition to maintain an encroachment shall be accompanied by an application fee of one hundred dollars ($100.00).

(b) In case of a petition for a license required by this division which requests the placing of more than one (1) movable encroachment of the same kind at various locations within the city, one (1) petition may be made to cover more than one (1) similar encroachment.

(c) If the ~~department of public works~~ division of compliance determines that a valuable consideration will be received by the city as a result of the encroachment, the ~~director~~ administrator of the ~~department of public works~~ division of compliance may waive the license fee provided in this section. Except for the waiver of license fees for individual newsracks under Article VIII of this chapter, the waiver shall be supported by a written finding identifying the consideration and indicating its value to the city.

Sec. 645-580. Enforcement.

In addition to and not by way of limitation of any other provision of this division, the ~~department of public works~~ division of compliance is authorized and empowered in behalf of the city to enforce this article by any appropriate remedy at law or in equity, or both, in order to effectively and affirmatively preclude any violations hereof.

Sec. 645-581. Content of regulations.

The board of public works may, at its discretion, in accordance with the procedures specified in Chapter 141 of the Code, adopt regulations deemed necessary and appropriate to carry out the provisions of this division, including, but not limited to, regulations establishing:

(1) A procedure for filing a license petition;

(2) Types of encroachments for which a license is allowed without documentation; such encroachments shall be limited to those that have only a minor effect on the use of the right-of-way and can be installed without blocking any portion of the street; regulations establishing these types of encroachments shall, without limitation, provide:

a. That such encroachments are automatically licensed as they exist on the effective date of the regulation if they are created in compliance with the requirements and standards specified by the regulation; and

b. With automatic licensure it is not necessary for the encroachment owner to file a petition for an encroachment license or receive a license document to be licensed under this regulation; and

c. The length of the term or terms of such encroachments;

(3) A procedure for amending or renewing a license;

(4) Standards and requirements for construction or use of encroachments; and

(5) A procedure for securing a variance from license standards and requirements. If the regulation authorizes the variance to be granted by ~~an official~~ the administrator of the ~~department of public works~~ division of compliance, it shall provide for an appeal of the decision to the ~~board of public works~~ director of the department of metropolitan development.

SECTION 37. Section 645-583 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-583. Termination of encroachment license; removal of an encroachment.

(a) The ~~department of public works~~ division of compliance may at any time terminate an encroachment license, whether the encroachment is based on a written document issued by such ~~department~~ division or allowed without documentation. The owner shall be responsible for removing such an encroachment. The city shall not be responsible for any costs related to the termination of the encroachment privilege; for example, the city shall not be responsible for the cost of removal of the encroachment or any diminution of value of the owner's property associated with the removal. Such department shall allow the owner sixty (60) days to remove the encroachment. However, if the terms of the encroachment license document specify a shorter or longer period removal time, the specified time shall be allowed for removal.

(b) If the owner does not remove an encroachment within the time allowed under section 645-583(a), the ~~department of public works~~ division of compliance may, without further notice, remove forthwith said encroachment and shall be entitled to recover its costs and expenses, including without limitation, reasonable attorney fees.

SECTION 38. Sections 645-601 through 645-607 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-601. Applicability of state statutes.

Whenever any of the matters relating to improvements, under private contract, of sidewalks, driveways or curbs, or the connection of private premises with public sewers and public utility service lines, and the control thereof by the ~~board of public works~~ division of compliance or by any other board are covered and controlled in all respects by any state statute, all such work so controlled shall conform to and all proceedings shall be governed thereby, but may also be supplemented by this Code. However, if and whenever any such statutes are repealed or amended so as not to cover all such matters or part thereof, then the provisions applicable to the matters set out in this chapter or other city ordinance shall be thereupon revived and again become effective in all or any of such matters, whether or not such statutory provisions, as herein incorporated by reference thereto, continue in effect for that purpose.

Sec. 645-602. Permit required; standards generally.

No person, including governmental bodies other than the city, shall cause any public way in the city to be altered, paved, widened, reconstructed or resurfaced without first obtaining a permit therefor from the ~~board of public works~~ division of compliance, which permit may be issued by the ~~director of public works~~ division of compliance upon payment of the required fees. Such improvement shall conform to the established highway grades and to the standard plans and specifications for that kind of work, as adopted by the board of public works~~, and shall be subject to the approval of the director of public works and the board of public works~~.

Sec. 645-603. Duty of abutting owners to connect with subsurface utilities.

It shall be the duty of owners of property abutting on a street or public place, which is to be permanently improved, repaired or altered, to provide for, install and make private connections for the use of their premises with an existing or for a later sewer or drain laid in the street, with all water, gas and other like types of public

utility services, and make all necessary repairs, extensions, relocations, changes or replacements thereof, and of any accessories thereto. Such owners shall bring the utilities from the places of connection in the street or public place to points within the curb or roadway line and up to the property line of the street or public place, in such manner and time as the ~~board of public works~~ division of compliance shall designate, order and require, as in instances of such improvements by the city itself.

Sec. 645-604. Manner of doing work generally; bond.

All work subject to this article shall be done in all respects in the manner required when such work is done by or for the city, except for the requirement of bids for the contract, and shall be completed within thirty (30) days after the confirmation of any resolution by the board of public works, or the letting of any private contract, unless the time is extended by order of the board of public works. A performance and maintenance bond, as required by this chapter for excavations, shall be executed to the city by any person doing such work himself or under private contract, and any person doing the work in any manner shall also agree to indemnify the city and all other persons against all damages, losses, claims, judgments and expenses arising from such work.

Sec. 645-605. Duty to inspect, report and repair defects in public ways.

(a) The ~~director of public works, in performing his duties under the direction of the board of public works,~~ division of compliance shall inspect ~~and repair~~ the streets, sidewalks and public places of the city, and the department of public works shall repair and maintain ~~them~~ the streets, sidewalks and public places of the city in a reasonably safe condition so far as the extent thereof and the facilities available therefor render practicable, to promote the security of those who travel over them by foot and vehicles, in the usual and accustomed modes and while themselves exercising reasonable care. It shall also be the duty of all city police officers and firemen to observe all streets, sidewalks, bridges and other public places over which they pass in the course of their duties and to make a record of and report promptly to the city traffic captain all defects and dangerous conditions they observe, and the traffic captain shall promptly report such findings in writing to the ~~board of public works~~ division of compliance.

(b) The ~~board of public works, by and through the director of public works,~~ division of compliance and the department of public works shall keep suitable persons employed, as the appropriations therefor permit, who respectively shall inspect, and cause to be repaired, dangerous or material defects and places on the streets, sidewalks, bridges and all other public places discovered by or reported to them. Any defective public ways of any kind reported to the ~~board~~ department of public works or coming to its knowledge shall be repaired in a reasonable time; however, there shall be no duty, except when so ordered or when the need is evident, on the part of the ~~board~~ department of public works and the city employees to repair every slight and trivial defect, uneven place and crack in the pavements, sidewalks, or portions of any street, or public place, which appear unlikely to cause injuries, but they shall use due diligence to remove all such defects and repair all such portions of the public ways and places known by them or reported to them which are reasonably sufficient in kind and extent to be dangerous for the general public in traveling over the same in the usual and accustomed modes while using their own faculties with due care.

~~(c) All departments and officials of the city shall exercise the powers and duties enumerated in subsections (a) and (b) in places under their jurisdiction and control.~~

Sec. 645-606. Barricading streets under construction or repair.

(a) It shall be lawful for any person employed by the city or for any contractor who is engaged in the construction, repair, paving, repaving or any other authorized work on any street or public place in the city to place proper barricades across the street and to close all or any portions thereof for the purpose of protecting the public and preserving the surface of the pavement, which is being or is about to be constructed or repaired, until the work is completed and safe and suitable for the public use thereof.

(b) Barricades permitted by subsection (a), and, when dark, lights, shall be placed thereat; all to be maintained by the person doing the work, as provided in this Code for other work upon the public streets or places.

(c) All barricades authorized by subsection (a), when the work is fully completed, shall be removed by the person who placed them on the street, or by employees of the city or the contractor, as soon as practicable and without notice; or shall be removed immediately upon order of the ~~director of public works~~ division of compliance.

(d) No person, without the written consent of the ~~director of public works or his representative~~ administrator of the division of compliance, who is supervising street construction, repair or other work shall

throw down, displace, damage, tamper with or remove any barricade or light placed in position during the process of such work.

(e) No person, without being so authorized by a person supervising work subject to this article, while barricades are in place during the progress of the work, shall drive through, around or against such barricades, nor shall any pedestrian walk over or around them; nor shall any person do any act to damage the freshly laid pavement or mar the surface thereof in any way, or interfere with such work, materials or equipment.

Sec. 645-607. Sidewalks.

(a) No person shall remove, construct, reconstruct, establish, alter or repair any sidewalk within the city under a private contract, without first obtaining a permit therefor from the ~~board of public works~~ division of compliance and paying the required fees, as authorized by this Code. Any person desiring a permit required by this subsection shall first submit plans and specifications therefor to the ~~director of public works~~ division of compliance, who may either approve the plans and specifications or require them to be altered, after which the owner or contractor shall apply to the ~~board of public works~~ division of compliance for the permit for such work.

(b) A performance and maintenance bond, as required for excavations in streets, shall be required of any person doing such work, and he shall agree to indemnify the city and all other persons, as required for street improvements. In all instances, the ~~board of public works~~ division of compliance may require such permittee to carry a sufficient public liability insurance policy in such amount as it determines to be necessary to protect the public, as a condition to issuing any permit under subsection (a).

(c) No sidewalk shall be constructed, reconstructed, altered or repaired so as to prevent free and unobstructed passage thereon for any longer than necessary, or in such manner as to interfere with the proper drainage and grading of the street.

(d) All such work shall be subject to the approval of the ~~director of public works and to the acceptance of the board of public works~~ division of compliance after consultation with the engineering division of the department of public works, and to further orders thereon. All matters of procedure pertaining thereto, as now or at any time provided for by statute, shall be followed so far as applicable, and are hereby adopted by this reference thereto as a part of this subsection, to continue, in the event any such statutes should be amended or repealed without continuing such or similar provisions.

(e) Any person causing a sidewalk to be built, constructed, reconstructed, altered, repaired or used contrary to such plans and specifications, as approved, or in violation of any provision of this chapter, or of state law, upon conviction therefor, may be fined as provided generally for violations of this Code; also, such work may be ordered to be suspended and to be constructed or reconstructed at such person's expense.

SECTION 39. Section 645-815 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 645-815. Attachment of individual newsracks to the public rights-of-way; encroachment license required.

(a) Each individual newsrack which is located in the Regional Center on January 1, 2001, or thereafter shall be bolted or attached permanently to the public rights-of-way in such a manner as to meet American Society of Civil Engineers (ASCE) wind load calculations, as evidenced by a certified engineer's report, including calculations and a certified engineer's drawing defining and/or illustrating the method of attachment to be used to meet or exceed a maximum of one hundred ten (110) mile per hour wind velocity.

(b) Each individual newsrack which is bolted or attached permanently to the public rights-of-way shall be licensed as an encroachment under the provisions of Article V, Division 3 of this chapter; however, because the city receives a valuable consideration from all such newsracks, the ~~director~~ administrator of the ~~department of public works~~ division of compliance shall waive the encroachment license fees for such newsracks, as provided in section 645-579 of this Code.

(c) Within ten (10) days after the owner of an individual newsrack files a petition for an encroachment license under Article V, Division 3 of this chapter, the ~~department of public works~~ division of compliance shall complete its investigation and issue to the owner either the license, or a written notice of denial. A petition for an individual newsrack encroachment license may be denied only for the reason that:

(1) The petition for the license contains incorrect information; or

(2) The placement of an individual newsrack on the public rights-of-way, as requested in the petition, does not comply with this division.

If such ~~department~~ division of compliance denies an encroachment license petition for an individual newsrack, the written notice shall state the specific reasons for the denial, and what specific actions, if any, would be necessary for the license to be issued.

(d) An appeal under section 645-578 of this Code with regard to an individual newsrack encroachment license or petition therefor shall be heard within twenty (20) days following receipt of the appeal, unless the parties mutually agree to an extension of this time period. The parties shall be given at least ten (10) days advance written notice of the time and place of the hearing, and a reasonable opportunity to participate in the hearing. The board of public works shall render its decision in writing within five (5) days after the hearing; a copy of the decision shall be delivered to the parties, and a certified copy shall be kept on file by the secretary of the board of public works. The decision of such board may be appealed to a court of competent jurisdiction within thirty (30) days following the date the decision was issued, and such court, pursuant to its rules of procedure, shall provide the opportunity for a prompt hearing and prompt decision by a judicial officer. Failure to file an appeal within the time period provided by this subsection shall constitute a waiver of the right to appeal.

(e) Within five (5) days following the expiration of an encroachment license for an individual newsrack, the owner shall remove the newsrack and cause any necessary restoration or repair of the public rights-of-way to be made.

SECTION 40. Section 671-2 of the "Revised Code of the Consolidated City and County" hereby is amended by the addition of the language which is underscored, to read as follows:

Sec. 671-2. Definitions.

As used in this chapter the following terms shall have the meanings ascribed to them in this section unless the context specifically indicates otherwise:

ASTM shall mean the American Society for Testing and Materials.

Accidental discharge shall mean an unintentional release of a material that could potentially violate the requirements of section 671-4(c), (d) or (e).

Act shall mean the Federal Water Pollution Control Act, as amended as of January 1, 1995, 33 USC 1251 et seq., also known as the Clean Water Act or CWA.

Administrator shall mean the Regional Administrator of Region V, U.S. Environmental Protection Agency or Commissioner of the Indiana Department of Environmental Management or its successor, provided such state agency has a pretreatment program approved by the EPA.

Applicable pretreatment standard shall mean, for any specified pollutant, the city's prohibitive discharge standards, the city's specific limitations on discharges, the State of Indiana pretreatment standards, or the federal general or categorical pretreatment standards (when effective), whichever standard is most stringent.

Approval authority shall mean the administrator.

Authorized representative of industrial user shall be:

(1) A responsible corporate officer if the industrial user is a corporation. A responsible corporate officer shall mean:

a. A president, vice-president, treasurer or secretary of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

b. A manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000.00) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to such manager in accordance with corporate procedures.

(2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively.

(3) For a municipality, state, federal or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

(4) An individual duly authorized by the person designated in subsection (1), (2) or (3) above, provided:

a. The authorization is made in writing by the individual described in subsection (1), (2) or (3) above;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, plant engineer, superintendent, or a position of equivalent responsibility or having overall responsibility for environmental matters for the company; and

c. The written authorization is submitted to the city.

Board shall mean the board of public works.

BOD (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from solid waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal and shall include that portion of the drain within the public right-of-way.

Categorical pretreatment standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which apply to a specific category of industrial user.

City shall mean the consolidated City of Indianapolis, Indiana.

City sewer shall mean a sewer owned and operated by the city.

Combined sewer shall mean a sewer receiving both surface runoff and sewage.

Composite sample shall mean a twenty-four-hour composite sample. Samples may be done either manually or automatically, and continuously or discretely, with not less than twelve (12) samples to be composited.

Cooling water shall mean the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

Council shall mean the city-county council of Indianapolis, Marion County, Indiana.

Department shall mean department of public works, City of Indianapolis.

Direct discharge shall mean the discharge of treated or untreated wastewater directly to the surface waters of the State of Indiana.

Director shall mean the director of the department of public works or his/her authorized deputy, agent or representative.

Division of compliance shall mean the division of compliance of the department of metropolitan development.

Discharge report shall mean any report required of an industrial user by section B.2. of the industrial discharge permit.

Domestic wastewater shall mean wastewater of the type commonly introduced into a POTW by residential users.

EPA shall mean the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Foundation drains shall mean any network of pipes, pumps or drainage mechanism located at, near or under a footing, foundation or floor slab of any building or structure that intentionally or unintentionally conveys groundwater away from a building or structure.

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

General pretreatment regulations shall mean "General Pretreatment Regulations for Existing and New Sources of Pollution," 40 CFR Part 403.

Grab sample shall mean a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Heat pump discharge shall mean water discharged from a heat pump or other device that uses water as a heat source or heat sink.

Indirect discharge shall mean the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC § 1317) into the POTW (including holding tank waste discharged into the system).

Industrial surveillance section shall mean the industrial surveillance section of the department of public works.

Industrial user shall mean any user of the POTW who discharges, causes or permits the discharge of nondomestic wastewater into the POTW.

Industrial wastewater shall mean a combination of liquid and water-carried waste discharged from any industrial user's establishment and resulting from any trade or process carried on in that establishment, including the wastewater from pretreatment facilities and polluted cooling water.

Infiltration shall mean the groundwater entering the sewer system from the ground through such means as, but not limited to, defective or poorly constructed pipes, pipe joints, connections and manholes or from drainage pipes constructed to remove groundwater from areas such as building foundations and farm fields.

Inflow shall mean the stormwater and surface water entering directly into sewers from such sources as, but not limited to, manhole covers, roof drains, basement drains, land drains, foundation drains, cooling/heating water discharges, catch basins or stormwater inlets.

Interference shall mean any discharge which, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Lift station shall mean any arrangement of pumps, valves and controls that lifts wastewater to a higher elevation.

NH3-N (denoting ammonia nitrogen) shall mean all of the nitrogen in water, sewage or other liquid waste present in the form of ammonia, ammonia ion or in the equilibrium NH+4 NH3 + H+.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source shall mean any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(1) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a new source has commenced if the owner or operator has:

(1) Begun or caused to begin as part of a continuous on-site construction program:

a. Any placement, assembly or installation of facilities or equipment; or

b. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment.

(2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Nonindustrial user shall mean all users of the POTW not included in the definition of "industrial user."

Pass-through shall mean a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation.)

Person shall mean any individual, partnership, trust, firm, company, association, society, corporation, group, governmental agency including, but not limited to, the United States of America, the State of Indiana and all political subdivisions, authorities, districts, departments, agencies, bureaus and instrumentalities thereof, or any other legal entity or any combination of such.

pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant shall mean, but is not limited to, any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical materials, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

Pollution shall mean the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

POTW shall mean all publicly owned facilities for collecting, pumping, treating and disposing of wastewater, including sewers, lift stations, manhole stations and the wastewater treatment plants.

Pretreatment or *treatment* shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except as prohibited by 40 CFR section 403.6(d).

Pretreatment standard or regulation shall mean any substantive or procedural requirement related to pretreatment contained in this chapter.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Public sewer shall mean any combined or sanitary sewer or lift station located within the public right-of-way or a dedicated easement and which is controlled by public authority.

Radioactive material means any material (solid, liquid or gas) which spontaneously emits ionizing radiation and which is regulated by the Nuclear Regulatory Commission (NRC) or the Indiana State Board of Health. This may include naturally occurring radioactive material, by-product material, accelerator produced material, source material or special nuclear material.

Sanitary district shall mean that area incorporated into the Marion County liquid waste sanitary district.

Sanitary sewer shall mean a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage normally discharged by a residence shall mean the liquid waste contributed by a residential living unit and shall not exceed a volume of ten thousand five hundred (10,500) gallons per month, thirty (30) pounds of BOD per month, and thirty-five (35) pounds of suspended solids per month.

Sewer shall mean a pipe or conduit for carrying sewage.

Sewer work shall mean the connecting of any building sewer to a city sewer, the making of a significant alteration to or significant repair of a building sewer, the connecting of a building sewer to a building drain or the altering or repairing of a city sewer.

Shall is mandatory; *may* is permissive.

Significant industrial user (SIU) shall mean any industrial user which is:

(1) A facility regulated by a national categorical pretreatment standard and generates a process discharge;

(2) A noncategorical facility with a process wastewater discharge greater than an average of twenty-five thousand (25,000) gallons per day;

(3) Any industrial user with a reasonable potential to adversely affect the POTW, its treatment processes or operations, or its sludge use or disposal or for violating any pretreatment standard or requirement; or

(4) Any other industrial user deemed to be significant by the director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or

(5) Any other industrial user which contributes process wastewater which makes up five (5) percent or more of the dry weather average hydraulic or organic capacity of the POTW treatment plant.

Upon a finding that an industrial user meeting the criteria of paragraphs (2), (3), (4) and (5) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the director may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR § 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Slug shall mean any discharge of wastewater which, in concentrations of any given constituent, as measured by a grab sample, exceeds more than five (5) times the allowable discharge limits as specified in this chapter and/or in quantity of flow exceeds more than five (5) times the user's average flow rate as authorized in the user's industrial discharge permit, for a period of duration longer than fifteen (15) minutes.

State shall mean the State of Indiana.

Storm drain or *storm sewer* shall mean a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Stormwater shall mean any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended solids (SS) shall mean solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

Toxic pollutant shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of CWA §§ 307(a) or 405(d) or other acts.

Upset shall mean an exceptional incident in an industrial user's facility, in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

User shall mean any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

Wastewater shall mean a combination of the liquid and water-carried pollutants from residences, commercial businesses, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Wastewater treatment plant shall mean any arrangement of devices and structures used for treating wastewater.

Wastewater works shall mean all facilities for collecting, pumping, treating and disposing of wastewater.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Abbreviations. The following abbreviations shall have the designated meanings:

BOD or BOD5:	Biochemical oxygen demand
CFR:	Code of Federal Regulations (July 1, 1994 edition)
COD:	Chemical oxygen demand
CWA:	Clean Water Act
EPA:	United States Environmental Protection Agency
G.O.:	General Ordinance
IC:	Indiana Code
IAC:	Indiana Administrative Code (as amended as of December 1, 1994)
IDEM:	Indiana Department of Environmental Management
ISBH:	Indiana State Board of Health
l:	Liter
mg:	Milligrams
mg/l:	Milligrams per liter
NPDES:	National Pollutant Discharge Elimination System
POTW:	Publicly owned treatment works
SIC:	Standard industrial classification
SS:	Suspended solids
SWDA:	Solid Waste Disposal Act, 42 USC § 6901 et seq.
TSS:	Total suspended solids
40 CFR 136:	"Guidelines Establishing Test Procedures for the Analyses of Pollutants"

SECTION 41. Section 671-22 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 671-22. Connection permits.

(a) *Permit required.* It shall be unlawful to cause or allow the repair, modification or connection of a building sewer to a public sewer or another building within the sanitary district without a valid sanitary sewer connection permit issued by the ~~department~~ division of compliance, and the fine imposed for a violation of this provision shall not be less than one hundred dollars ($100.00) for each day the violation continues; the city controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~department~~ division of compliance. Permits will not be granted for connections to sewers not dedicated and accepted in accordance with section 671-161 of this chapter. This shall in no way limit the issuance of a building permit ~~by the division of development services~~ subject to the approval of a sanitary sewer connection permit application ~~by the department of public works~~.

(b) *Minimum elevations for gravity connection.* A sanitary sewer connection permit will not be granted to homes or buildings where the lowest elevation to have gravity sanitary service is less than one (1) foot above the top of manhole casting elevation of either the first upstream or downstream manhole on the public sewer to which the connection is to be made. If the first upstream or downstream manhole is at a higher elevation due to the natural topography of the area, an alternate manhole will be selected for the purpose of determining this measurement.

(c) *Grease interceptors.* A grease interceptor meeting the requirements of the ~~department of fire prevention and building services~~ Indiana Fire Prevention and Building Safety Commission shall be installed in waste lines (building sewers) from establishments delineated in section 671-4(g). The design and location of the grease interceptor shall be submitted to the ~~department~~ division of compliance for approval.

(d) *Permit fee; refunds.* A fee per connection to the sewer shall be charged for a sanitary sewer connection permit. The board of public works shall establish the amount of such fee by regulation and may revise the amount of such fee but not more often than once each calendar year. The fee shall cover the costs of mandatory inspection by the ~~department~~ division of compliance of the building sewer and its connection, and any reinspection that may be necessary because of remedial construction. The permit fee paid under this article shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued and was in force at the time the second permit was applied for and issued.

(e) *Modification of permit fee.* The board of public works may modify the fee for connection permits under a public improvement resolution or in the exercise of the department's general powers and duties to construct city sewers.

(f) *Applications.* An application for such connection permit shall be made on a form prescribed by the ~~director~~ division of compliance and may require the following information:

(1) Name and address of the owner.

(2) The name, address and telephone number of the contractor.

(3) Address and, if necessary, the legal description of the premises where the work is to be done.

(4) Plans for the building sewer and connections, which at a minimum must consist of drawing(s) of the building, the parcel boundaries, the connection detail, including grease interceptor connection detail where applicable, materials of construction and installation method.

(5) Any other information as may be deemed reasonable and necessary by the ~~director~~ administrator of the division of compliance to carry out the provisions of this chapter.

(g) *Who may apply.*

(1) Application for a sewer connection permit shall only be made by the following:

a. A plumbing contractor licensed by the state and registered in accordance with Chapter 875 of this Code.

b. A contractor (other than a plumbing contractor) who has met the surety bond and insurance requirements of the department of metropolitan development. Surety bond requirements are met if the building sewer contractor has filed and maintains with the city a surety bond, as set forth in Chapter 875 of this Code. Insurance requirements are met if the contractor has secured and maintains a public liability and property damage insurance policy as set forth in Chapter 875 of this Code.

(2) The ~~department~~ division of compliance may deny permits to any applicant who is currently in violation of this chapter or any other applicable regulations.

(h) *Conformance with Indiana fire prevention and building safety regulations.* All sewer work and other construction actually performed on or associated with the building drain, building sewer and the connection of the building sewer to the public sewer shall be in accordance with the rules and regulations of the Indiana Fire Prevention and Building Safety Commission and standard specifications of the department of public works.

(i) *Expiration of permit by operation of law; extensions.* The connection permit shall expire by operation of law and shall no longer be of any force or effect if work is not initiated within one hundred eighty (180) days from the date of issuance of the permit. The ~~director~~ administrator of the division of compliance may, however, for good cause shown in writing, extend the duration of the permit for an additional period which is reasonable under the circumstances to allow commencement of the construction activity. In no event shall the extension exceed a period of sixty (60) days. 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 ~~director~~ administrator may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances to allow resumption of construction activity. The fee for an extension under this subsection shall be thirty dollars ($30.00), and the extension shall be confirmed in writing.

(j) *Provisions of chapter supplemental to other construction ordinances.* This chapter shall not be construed as contravening any ordinances of the city relating to construction within public streets, roads or rights-of-way but rather shall be supplemental thereto.

(k) *Enforcement of bond.* Any action may be initiated in a court of competent jurisdiction relative to the bond provided for in subsection (g)(1)b. as follows:

(1) The corporation counsel of the city may initiate proceedings to forfeit a bond:

a. As a penalty for repeated Code violations by a contractor, his agents or employees; or

b. To indemnify the city against any loss, damage or expense sustained by the city by reason of the conduct of the contractor, his agents or employees.

(2) A person, partnership or corporation which holds a property interest in the real estate on which sewer work has occurred may bring an action against the bond for expenses necessary to correct code deficiencies therein after written notice of the code deficiency has been given to the contractor and after the contractor has been given a reasonable opportunity to correct performance. If such a person, partnership or corporation prevails in any action brought under this section, he may also be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended as determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action.

(l) *Variance procedure.* The ~~director~~ administrator of the division of compliance, after consultation with the engineering division of the department of public works, shall have the power to modify or waive any minimum sanitary sewer design standard found in this article or in any regulations promulgated by the board pursuant to section 671-15 of this Code, which pertain to permits issued under this article. The ~~director~~ administrator may grant such a variance if an applicant for a construction permit submits the request in writing and makes a substantial showing that:

(1) A minimum sanitary sewer design standard or regulation is unfeasible or unreasonably burdensome; and

(2) An alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum sewer design standards and regulations of the department.

If the ~~director~~ administrator fails to respond within twenty (20) days from receipt of a written request for modification or waiver, such request shall be deemed to be denied. An applicant may appeal to the board a decision of the ~~department~~ division of compliance which denies or partially denies a requested variance. The appeal of such a decision shall be filed with the board within twenty (20) days following the date of the decision. The board shall hear the request for the variance de novo, and in making a decision shall apply the standards set forth above.

(m) *Exemption relative to work accomplished by or for certain governmental units.* Permits as required by this section shall be obtained for sewer connection activity in the city accomplished by or for a governmental unit, and inspections relative to such sewer connection activity shall be allowed. Fees shall be required as specified by the board of public works, except for the following:

(1) Sewer connection activity for which a fee cannot be charged by the municipality because of federal or state law; or

(2) Sewer connection activity accomplished by a unit of local government, or by its employee or contractor in the course of such employee's or contractor's performance of duties for a unit of local government.

(n) *Notice of change in permit information.* After a permit has been issued, the permittee shall give prompt written notice to the ~~director~~ division of compliance of any addition to or change in the information contained in the permit application.

(o) *Amendment of permits and plans.* After a permit has been issued, any material deviation or change in the information contained in the permit application or the plans shall be considered an amendment subject to approval by the ~~director~~ administrator of the division of compliance. Prior to the time construction activity involving the change occurs, the permittee shall file with the ~~director~~ division of compliance a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans. The ~~director~~ division of compliance shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans. The fee for the amendment of a permit shall be thirty dollars ($30.00). Reinspection fees and other fees which are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

(p) *Transfer of permit.* A sanitary sewer connection permit may be transferred with the approval of the ~~director~~ administrator of the division of compliance to a person, partnership or corporation which would be eligible to obtain such construction permit in the first instance (hereinafter called "transferee"), after both the payment of a fee of thirty dollars ($30.00) and the execution and filing of a form furnished by the ~~department~~ division of compliance. Such transfer form shall contain, in substance, the following certifications, release and agreement:

(1) The person who obtained the original construction permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:

a. Certify under penalties for perjury that such person is familiar with the sanitary sewer construction activity accomplished pursuant to the construction permit; such person is familiar with the construction standards and procedures provided in this article; and to the best of such person's knowledge, information and belief the construction activity, to the extent performed, is in conformity with all standards and procedures provided in this article; and

b. Sign a statement releasing all rights and privileges secured under the construction permit to the transferee.

(2) The transferee shall:

a. Certify that the transferee is familiar with the information contained in the original construction permit application, the design plans and specifications, and any other documents filed in support of the application for the original construction permit;

b. Certify that the transferee is familiar with the present condition of the premises on which the construction activity is to be accomplished pursuant to the construction permit; and

c. Agree to adopt and be bound by the information contained in the original application for the construction permit, the design plans and specifications, and other documents supporting the original construction permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the director for approval.

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 ~~director~~ administrator of the division of compliance. A permit for construction activity at a specified location may not be transferred to construction activity at another location.

(q) *Revocation of permits.* The ~~director~~ division of compliance may revoke a permit when:

(1) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact; or

(2) The application, plans or supporting documents reflect a lack of compliance with the requirements of this article.

The sanction provided in this subsection shall in no way limit the operation of penalties provided elsewhere in this chapter.

(r) *Stop-work order.* The ~~director~~ administrator of the division of compliance is empowered to issue an order requiring the suspension of the pertinent construction activity ("stop-work order") whenever the ~~director~~ administrator determines that:

(1) Construction activity is proceeding in an unsafe manner;

(2) Construction activity is proceeding in violation of a requirement of this article;

(3) Construction activity is proceeding in a manner which is materially different from the application, plans, or supporting documents; or

(4) Construction activity for which a sanitary sewer connection permit is required is proceeding without such a permit being in force. In such an instance, the stop-work order shall indicate that the effect of the order terminates when the required permit is issued.

The stop-work order shall be in writing and shall state to which construction activity it is applicable and the reason for its issuance. The stop-work order shall be posted on the property in a conspicuous place and, if conveniently possible, shall be given to the person doing the construction and to the owner of the property or his agent. The stop-work order shall state the conditions under which construction may be resumed. The sanction provided in this subsection shall in no way limit the operation of penalties provided elsewhere in this chapter.

SECTION 42. Sections 671-24 and 671-25 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 671-24. Dewatering discharge to a combined sewer.

(a) It shall be unlawful to discharge the water resulting from dewatering activity to a combined sewer, whether such activity is temporary or permanent, without a valid sanitary sewer connection permit issued by the ~~department~~ division of compliance. As a condition to the issuance of a permit, the applicant shall install, maintain and operate at the user's expense a metering device to measure the flow associated with such discharge.

(b) Based upon the volumes determined by the measurements, the user will be charged appropriate user fees in accordance with Article IV of this chapter.

(c) The user shall be required to submit monthly reports, subject to verification if authorized by the ~~director~~ division of compliance, to serve as the basis for billing, with any necessary adjustments in the amount made after verification.

Sec. 671-25. Mandatory inspection.

(a) *Notification.* It shall be the duty of the holder of a connection permit to notify the ~~department~~ division of compliance in the manner described on the sanitary sewer connection permit that the sewer work is available for inspection. The ~~department~~ division of compliance will conduct inspections on building sewer connections from 8:00 a.m. to 5:00 p.m. local time, Monday through Friday, except for observed city holidays. The building sewer, in its entirety from the foundation to the connection with the public sewer or existing lateral, must be exposed for inspection and be properly bedded in accordance with the department's standard specifications to one-half the diameter of the building sewer. It is further the duty of the permit holder to install safety barricades, fences or other safety measures while waiting for an inspection. The permit holder may backfill the building sewer trench if the ~~department~~ division of compliance has not made an inspection within a four-hour period after notice has been given to the ~~department~~ division of compliance. In the event the building sewer is not completed and ready for inspection upon the inspector's arrival or if the

notification is made after 1:00 p.m. local time, Monday through Friday, the permit holder shall make the building sewer and connection available for a four-hour period on the following department work day. An inspection may be waived with or without conditions with the approval of the ~~director~~ division of compliance.

(b) *Right of entry.* The division of ~~development services~~ compliance and the department shall each have the right of entry to, upon or through any premises for purposes of inspection of sewer work and any other construction activity performed on or associated with the connection of the building sewer to the city sewer including inspection for clear water discharges into the sewer.

SECTION 43. Sections 671-27 through 671-31 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 671-27. Maximum number of connections.

No more than one (1) building will be permitted to connect to a building sewer. Sewers with more than one (1) connection must be constructed as a public sewer in a dedicated easement in accordance with Article VII, unless the ~~department~~ administrator of the division of permits determines that an exception is justified.

Sec. 671-28. Building sewer responsibility.

It shall be the responsibility of the property owner(s) whose property is benefitted to provide for, install and make private connections for the use of their premises to an existing public or building sewer. Further, it shall be the responsibility of the owner to make all necessary repairs, extensions, relocations, changes or replacements thereof, and of any accessories thereto. These requirements may be altered, modified or waived at the discretion of the ~~director~~ administrator of the division of permits when it is shown that compliance is not possible due to extenuating circumstances.

Sec. 671-29. Existing foundation drains, roof drains, defective building sewers and sump pumps.

In the event the ~~department~~ division of compliance determines that a violation of section 671-4(a) exists, the ~~department~~ division of compliance shall notify the violator, by certified mail, that such violation exists. The notice shall describe the nature of the violation and the corrective action(s) that must be taken. Such corrective action shall be taken within thirty (30) days of receipt of such notice.

Sec. 671-30. Penalties.

Any person violating any provision of this article shall be subject to the penalties of this chapter in accordance with sections 671-16 and 671-22 and further, at the discretion of the ~~director~~ administrator of the division of compliance, may be required to correct such violation at his expense.

Sec. 671-31. Appeal.

Any person affected by the exercise of any discretionary authority delegated by this article to any official of the ~~department~~ division of compliance and who objects to the decision made or action taken by such official shall be entitled to a hearing before the board of public works upon such objection. The person desiring such hearing before the board shall file a written request for a hearing, including a statement of his objections, with the director, who shall call the same to the attention of the board. Such requests must be filed with the director within ten (10) days from the date of the action being appealed. The appeal shall be scheduled before the board within thirty (30) days after such request is filed. Notice shall be given to the appellant identifying the time, place and date of the appeal at least ten (10) days prior to the scheduled date. The board may hear any evidence it deems relevant. After the hearing, the board may confirm, reverse or modify the decision or action. The order of the board shall be final. Such order shall be made within ten (10) days after the hearing and shall be in writing and sent to the appellant.

SECTION 44. Sections 671-122 and 671-123 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 671-122. Permit required; fee.

Before the commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit therefor signed by the ~~director~~ administrator of the division of compliance. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the ~~director~~ administrator. A

permit and inspection fee of one hundred dollars ($100.00) shall be paid to the city at the time the application is filed.

Sec. 671-123. Approval of the ~~director~~ division of compliance required; inspections.

A permit for a private wastewater disposal system as required by this article shall not become final until the installation is completed to the satisfaction of the ~~director~~ division of compliance; ~~he/she~~ the division shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the ~~director~~ division of compliance when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the ~~director~~ division of compliance.

SECTION 45. Sections 671-151 and 671-152 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 671-151. Requirements for construction permits; enforcement.

(a) It shall be unlawful to cause or allow the construction or modification of any sanitary sewer or sanitary sewer lift station without first obtaining a valid construction permit issued by the ~~department~~ division of compliance and the Indiana Department of Environmental Management; provided, however, a sanitary sewer construction permit shall not be required for maintenance work performed by or on behalf of the department.

(b) The ~~department~~ division of compliance may deny permits to any applicant who is currently in violation of this chapter or any applicable regulations.

(c) A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars ($100.00), and each day that an offense continues shall constitute a separate violation. The city controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~department~~ division of compliance.

Sec. 671-152. Application procedures; design plans and specifications.

(a) Applications shall be submitted in accordance with procedures established by the ~~department~~ division of compliance and revised from time to time. Design plans and specifications for the construction of sanitary sewers shall be developed by or under the direction of a professional engineer registered in accordance with IC 25-31-1 and shall have a title sheet which includes the professional engineer's seal and signature. The approval of design plans and specifications by the ~~department~~ division of compliance under this article shall be valid for a period of one (1) year from the date such approval was granted, or until the construction permit for which the design plans and specifications were submitted is issued, whichever occurs first. However, prior to the issuance of the construction permit, if there are any material changes to approved design plans and specifications, or circumstances which cause the design plans and specifications to be inaccurate or incomplete, then new or corrected design plans and specifications shall be submitted to the ~~department~~ division of compliance as a precondition for obtaining a construction permit.

(b) An application fee shall be submitted to cover the cost of plan review. The board of public works shall establish the amount of such fee by regulation and may revise the amount of such fee but not more often than once each calendar year. The application fee paid under this article shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued and was in force at the time the second permit was applied for and issued.

(c) Applications for construction permits shall be submitted at least sixty (60) days in advance of the proposed start of construction, provided, however, that a shorter time period may be approved by the ~~director~~ division of compliance.

(d) Applications shall include a certificate of sufficiency of plan filed by a professional engineer registered in accordance with IC 25-31-1.

(e) The ~~director~~ administrator of the division of compliance may, as a prerequisite to the issuance of a construction permit, require developers, wherever applicable, to send written notification to property owners whose properties abut the route of the proposed sewer.

(f) Applications shall include any additional information deemed necessary by the ~~director~~ division of compliance to carry out the provisions of this chapter.

SECTION 46. Sections 671-155, 671-156, and 671-157 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 671-155. Right to limit sewer capacity.

Except to the extent that it may be preempted by state or federal laws, rules or regulations, the ~~department~~ division of compliance may deny the issuance of a construction permit if it is demonstrated that there is insufficient dry or wet weather capacity in any or all downstream sewers, lift stations, force mains and treatment plants, including capacity for pollutants, to accommodate the waste load expected to be generated as a result of the proposed development.

Sec. 671-156. Posting of bond.

(a) The ~~director~~ administrator of the division of compliance may, as a prerequisite to the issuance of a construction permit, require the posting of a performance bond from a company licensed by the State of Indiana to provide such surety. Such bond shall be equal to one hundred (100) percent of the contract amount or an amount established by the ~~director~~ administrator to provide surety for the satisfactory completion of the improvements required by the construction permit and shall name the City of Indianapolis and County of Marion as parties who can enforce the obligations thereunder. Such bond may be a part of the total bonding required by the ~~plats~~ plat committee of the metropolitan development commission.

(b) The ~~director~~ administrator of the division of compliance may as a prerequisite to acceptance of a sanitary sewer or lift station require the posting of a maintenance bond in an amount not to exceed twenty (20) percent of the contract amount or, subject to the approval by the ~~director~~ administrator, provision for maintenance for a period of three (3) years from the date of acceptance by the ~~department~~ division of compliance. Such bond shall name the City of Indianapolis and County of Marion as parties who can enforce the obligations thereunder.

(c) In instances where the ~~director~~ administrator has required a bond pursuant to this section, the ~~director~~ administrator may as an alternative to the posting of such bond accept other appropriate security, such as a properly conditioned irrevocable letter of credit, which meets the same objectives as the bonds described in this section, subject to approval of any other department or agency whose interests are protected by the same bonding requirement.

(d) If the surety on any bond furnished to the ~~department~~ division of compliance becomes a party to a supervision, liquidation, rehabilitation action pursuant to IC 27-9 et seq., or its right to do business in the state is terminated, it shall be required that, within thirty (30) days thereafter, a substitute bond and surety be provided, both of which must be acceptable to the city. Failure to obtain a substitute bond within the stated time frame shall be cause for revocation or suspension of the construction permit until such time that the bond is furnished to the ~~department~~ division of compliance.

Sec. 671-157. Execution of covenant.

(a) The ~~director~~ administrator of the division of compliance may, as a prerequisite to the issuance of a construction permit, require the execution of covenants and/or easements running in form to the City of Indianapolis and County of Marion by the owner or owners of such parcel. As a minimum in such cases, the ~~director~~ administrator shall require that the following covenant be executed by the owner or owners of such parcel which shall be included in a recorded plat:

> It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the sanitary sewer construction plan approved by the ~~department of public works~~ division of compliance of the department of metropolitan development, and the requirements of all sanitary sewer construction permits for this plan issued by ~~said department~~ such division.
>
> Owner further covenants that no building, structure, tree or other obstruction shall be erected, maintained, or allowed to continue on the portion of the owner's real estate in which the easement and right-of-way are granted without express written permission from the ~~department~~ division of compliance of the department of metropolitan development. Such permission, when duly recorded, shall run with the real estate. The department of public works and the division of compliance and ~~its~~ their agents shall have the right to ingress and egress, for temporary periods only, over the owner's real estate adjoining said easement and right-of-way, when necessary to construct, repair or maintain sanitary sewer facilities.

(b) Any person who violates a covenant required under this section, and/or the owner of any parcel of land who permits such a violation, who is notified in writing by the department of public works or ~~department of metropolitan development~~ division of compliance that a violation exists, shall be given a reasonable period of time, not to exceed thirty (30) days, in which to correct such violation. The notice shall specify the nature of the violation and shall stipulate a required correction date.

SECTION 47. Sections 671-159 through 671-164 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 671-159. Expiration of construction permit by operation of law; extensions; certificate of completion and compliance.

(a) If construction activity has not been commenced within one hundred eighty (180) days from the date of issuance of the sanitary sewer construction permit, the permit shall expire by operation of law and shall no longer be of any force or effect; provided, however, the ~~director~~ administrator of the division of compliance may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances to allow commencement of the construction activity. In no event shall the extension exceed a period of sixty (60) days.

(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 six (6) months, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the ~~director~~ administrator of the division of compliance may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances to allow resumption of construction activity.

(c) The fee for an extension granted under this section shall be thirty dollars ($30.00), and the extension shall be confirmed in writing.

(d) Within fourteen (14) days after satisfactory completion of tests on the sanitary sewer or lift station for which a construction permit was obtained, the professional engineer contracted in accordance with section 671-160 shall execute and file with the ~~department~~ division of compliance a certificate of completion and compliance, in a form prescribed by the ~~department~~ division.

Sec. 671-160. Inspection of construction of sanitary sewers.

(a) *Execution of inspection agreement.* Prior to the commencement of construction, the applicant shall execute an agreement with the ~~department~~ division of compliance which will provide that:

(1) The ~~department~~ division of compliance will contract for construction inspection services to ensure that such construction meets the requirements of the approved construction plans.

(2) The contracted engineer will be responsible for submitting and certifying air pressure or infiltration test results for all pipe and deflection test results for all flexible pipe.

(3) The applicant will reimburse the ~~department~~ division of compliance for the cost of such inspection services, which shall be determined at the time of execution of the agreement and verified by the applicant or his representative throughout construction.

(4) Upon completion of construction, the contracted engineer shall execute and file with the ~~department~~ division of compliance a certificate of completion and compliance certifying to the ~~department~~ division of compliance and the applicant as to the compliance of such construction with the requirements of the approved construction plans and/or approved change orders.

(5) No action with regard to the acceptance of the construction and release of the improvement bond pursuant to this article shall be taken until the applicant has reimbursed the ~~department~~ division of compliance in full for the inspection services.

(b) *Inspection of construction:*

(1) All construction of sanitary sewers intended for dedication to the city shall be inspected and certified pursuant to the agreement executed under subsection (a).

(2) The applicant shall furnish the ~~department~~ division of compliance necessary copies of the approved construction plans.

(3) If construction has already commenced on the effective date of General Ordinance No. 63, 1987, adopted July 20, 1987, the applicant must then furnish, along with a written request for acceptance, a certification by a professional engineer registered in the State of Indiana that the construction has met the requirements of the approved construction plans; further, the construction will be inspected by the ~~department~~ division of compliance, and all deficiencies shall be corrected prior to acceptance by the ~~department~~ division of compliance.

Sec. 671-161. Requirements for project acceptance and dedication to the city.

Sanitary sewers and lift stations will not be accepted and building sewer connection permits shall not be issued until all documents, as required by the department's standard specifications, are submitted to the ~~department~~ division of compliance, including the following:

(1) Maintenance bond as required in section 671-156(b);

(2) Recorded covenant and easement documents as required in sections 671-157 and 671-158;

(3) Certificate of completion and compliance as required in section 671-159(d);

(4) The completion of a final inspection as required in section 671-160 which confirms that the sewer has been constructed and tested in accordance with the department's standard specifications; and

(5) Sanitary sewer record ("as built") drawings in accordance with the department's standards which shall be stamped and signed by a land surveyor registered in accordance with IC 25-31-1.

Sec. 671-162. Dedication and rehabilitation of existing sewers.

(a) The owner of a sanitary sewer may apply to the ~~department~~ division of compliance for dedication of the sewer, providing that the application is made in writing.

(b) Dedication of such sewer may be subject to the requirements outlined in sections 671-160(b) and 671-161 of this article and further, at the discretion of the ~~director~~ administrator of the division of compliance, may require the following:

(1) Proof of legal ownership;

(2) Flow monitoring results;

(3) Television results;

(4) Any other requirements as may be deemed reasonable and necessary by the ~~director~~ administrator of the division of compliance.

(c) In addition, the owner may, at his expense, be required to correct any deficiencies or remove any sources of clear water found as a result of any inspection, flow monitoring, television and/or other related testing.

Sec. 671-163. General authority for investigations and inspections.

(a) The power to make investigations and inspection of sanitary sewer and/or lift station construction shall be vested in the ~~director and his authorized representatives~~ division of compliance.

(b) Investigation and inspection of sanitary sewer and/or lift station construction may be made at any time by going upon, around or about the affected property.

(c) Such investigation and inspection may be made either before, during or after the construction is completed and shall be made for the purpose of determining whether the construction has been accomplished in a manner consistent with the approved plans and specifications and the minimum requirements of the department.

(d) Persons working on or having control of the construction shall cooperate fully with the inspectors and shall have available a copy of the approved plans and specifications used to obtain the construction permit.

Sec. 671-164. Variance procedure.

(a) The ~~director or, in his absence, a representative of the department designated by the director~~ administrator of the division of compliance shall have the power to modify or waive any minimum sanitary sewer design standard found in Article VII of this chapter or any regulations promulgated by the board of public works pursuant to Article VII of this chapter. The ~~director or his designee~~ administrator, after consultation with the engineering division of the department of public works, may grant such a modification or waiver if an applicant for a construction permit submits the request in writing and makes a substantial showing:

(1) That a minimum sanitary sewer design standard or regulation is unfeasible or unreasonably burdensome; and

(2) That an alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum sewer design standards and regulations of the department.

(b) If the ~~director or his designee~~ administrator shall fail to respond to such request for variance within twenty (20) days from such written request, it shall be deemed to be denied.

(c) An applicant may appeal to the board of public works the decision of the ~~director or his designee~~ administrator denying or partially approving a requested variance. The appeal of such a decision shall be filed with the board within twenty (20) days of the decision. The board shall hear the request for the variance de novo and in making a decision shall apply the standards set forth above.

SECTION 48. Sections 671-167 through 671-170 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 671-167. Notice of change in permit information; amendment of permits and plans.

(a) After a permit has been issued, the permittee shall give prompt written notice to the ~~director~~ division of compliance of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, any material deviation or change in the information contained in the permit application or the design plans and specifications shall be considered an amendment subject to approval by the ~~director~~ administrator of the division of compliance. Prior to the time construction activity involving the change occurs, the permittee shall file with the ~~director~~ division of compliance a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

(c) The ~~director~~ division of compliance shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans. A fee for the amendment of a permit shall be thirty dollars ($30.00). Reinspection fees, and other fees which are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

Sec. 671-168. Stop-work order; revocation of permits.

(a) The ~~director~~ administrator of the division of compliance is empowered to issue an order requiring suspension of work ("stop-work order") whenever the ~~director~~ administrator determines that:

(1) Construction is proceeding in an unsafe manner; or

(2) Construction is occurring in violation of the department's standard specifications and requirements and in such a manner that, if construction is allowed to proceed, there is a probability that it will be substantially difficult to correct the violation; or

(3) Construction activity is proceeding in a manner which is materially different from the application, design plans or specifications; or

(4) Sewer construction for which a construction permit is required is proceeding without a construction permit being in force. In such an instance, the stop-work order shall indicate that the effect of the order terminates when the required permit is obtained.

The stop-work order shall be in writing and shall state to what construction it is applicable and the reason for its issuance. One (1) copy of the stop-work order shall be posted on the property in a conspicuous place, and one (1) copy shall be delivered to the permit applicant, to the person doing the construction and to the owner of the property or his agent. The stop-work order shall state the conditions under which construction may be resumed.

(b) The ~~director~~ administrator may revoke a sanitary sewer construction permit when:

(1) The application, design plans or specifications contain a false statement or misrepresentation as to a material fact; or

(2) The application, design plans or specifications reflect a lack of compliance with the requirements of this article.

(c) The sanctions provided in this section shall in no way limit the operation of penalties provided elsewhere in this chapter.

Sec. 671-169. Appeals.

(a) Any person affected by authority delegated by this article to any official of the ~~department~~ division of compliance and who objects to the decision made or the action taken by such official shall be entitled to a hearing before the board of public works upon such objection. The person desiring such a hearing shall file a written statement of his objections with the director, who shall call the same to the attention of the board. The appeal shall be scheduled before the board within thirty (30) days after such objections are filed with the director. Notice shall be given to the objector identifying the time, place and date of the appeal at least ten (10) days prior to the scheduled date.

(b) After hearing testimony of the objector and the official who made the decision or took the action objected to, the board may confirm, reverse or modify such decision or action. The order of the board shall be final. Within ten (10) days of the board's decision a written notice shall be given to the objector confirming such decision.

Sec. 671-170. Transfer of permit.

(a) A sanitary sewer construction permit may be transferred with the approval of the ~~director~~ administrator of the division of compliance to a person, partnership or corporation which would be eligible to obtain such construction permit in the first instance (hereinafter called "transferee"), after both the payment of a fee of thirty dollars ($30.00) and the execution and filing of a form furnished by the ~~department~~ division of compliance. Such transfer form shall contain, in substance, the following certifications, release and agreement:

(1) The person who obtained the original construction permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:

a. Certify under penalties for perjury that such person is familiar with the sanitary sewer construction activity accomplished pursuant to the construction permit; such person is familiar with the construction standards and procedures provided in this article; and to the best of such person's knowledge, information and belief the construction activity, to the extent performed, is in conformity with all standards and procedures provided in this article; and

b. Sign a statement releasing all rights and privileges secured under the construction permit to the transferee.

(2) The transferee shall:

a. Certify that the transferee is familiar with the information contained in the original construction permit application, the design plans and specifications, and any other documents filed in support of the application for the original construction permit;

b. Certify that the transferee is familiar with the present condition of the premises on which the construction activity is to be accomplished pursuant to the construction permit; and

c. Agree to adopt and be bound by the information contained in the original application for the construction permit, the design plans and specifications, and other documents supporting the original construction permit application; or in the alternative, agree to be bound by such

application plans and documents modified by plan amendments submitted to the ~~director~~ division of compliance for approval.

(b) The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor (including, but not being limited to, the requirement of section 671-159 that a certificate of completion and compliance be executed and filed) and shall be subject to any written orders issued by the ~~director~~ division of compliance.

(c) A permit for construction activity at a specified location may not be transferred to construction activity at another location.

SECTION 49. Section 807-28 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 807-28. Operation.

(a) An adult entertainment establishment shall be kept in a sanitary condition at all times. As a condition of licensure under this chapter, the controller or controller's designee shall have the right to enter any licensed premises at any time without notice to insure compliance with this chapter. The controller shall have the power to determine if such establishment is in a sanitary condition. For such purpose, the controller shall have, upon demand, the assistance of the administrator of the division of ~~development services~~ compliance of the department of metropolitan development, and the Health and Hospital Corporation of Marion County. If the controller shall determine, after investigation by the division of development services or the Health and Hospital Corporation of Marion County, that an unsanitary condition exists within an adult entertainment establishment, the controller shall suspend the establishment license for such premises until such unsanitary condition is rectified.

(b) No licensee under this article, or his employee, shall permit persons to congregate in a disturbing manner within such licensed establishment or on parking areas or other property immediately adjacent to or normally used for purposes of parking for the establishment, which property is under the control of the establishment owner or owners or their lessee or lessor. A violation of this provision shall be sufficient grounds for the revocation of the license by the controller.

(c) No licensee under this article, or his employee, shall violate any state statute or city ordinance, or allow any other person to commit such a violation, within such establishment or on parking areas or other property immediately adjacent to or normally used for purposes of parking for such establishment, which property is under the control of the establishment owner or owners or their lessee or lessor. A violation of this provision shall be sufficient grounds for the revocation of the license by the controller.

SECTION 50. Section 875-107 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-107. Qualifications for person, partnership or corporation to be listed as contractor.

A person, partnership or corporation shall be entitled to receive a listing as a contractor if the following requirements are met:

(1) An application form indicating the name, address and legal business status of the contractor has been submitted to the division of ~~development services~~ compliance; and

(2) The listing fee specified in section 875-701 of this Revised Code has been paid; and

(3) A surety bond meeting the requirements of section 875-109 has been posted and certificates of insurance meeting the requirements of section 875-110 have been submitted, unless these requirements are relieved because a person meets the inspector status requirement stated in section 875-108; and

(4) The person, partnership or corporation does not presently have a listing issued under this article currently suspended, nor has it had such a listing revoked within a period of the preceding three hundred sixty-five (365) days; and

(5) The partnership does not presently have a partner or the corporation does not presently have an officer who has a listing under this article currently suspended or who has had such a listing revoked within the preceding three hundred sixty-five (365) days; and

(6) The partnership does not presently have a partner or the corporation does not presently have an officer who, within the preceding three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation listed under this article at the time when actions related to policies or practices of the partnership or corporation occurred which provided a primary basis on which the listing of the partnership or corporation was revoked or suspended for more than one hundred eighty (180) days.

Unless these requirements are met a person, partnership or corporation shall not be entitled to receive a listing as a contractor. No prerequisites other than the six (6) listed in this section shall be imposed in determining which persons, partnerships and corporations may be listed contractors.

SECTION 51. Sections 875-109, 875-110, and 875-111 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-109. Bond.

(a) Before a listing is issued by the ~~neighborhood and development services~~ division of planning to any person, partnership or corporation, the administrator of such division shall require the applicant to file a surety bond in the amount of ten thousand dollars ($10,000.00). Such a bond shall be maintained in full force and effect for the full period of the license. The bond originally filed with the application for a listing or to renew a listing shall be for a period of not less than one (1) year. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

(1) Issued by a surety authorized to do business in Indiana;

(2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee;

(3) Conditioned upon:

a. Compliance with requirements set forth in this chapter which must be met to retain listing and licensure; and

b. Prompt payment of all fees owed the consolidated city as set forth in this chapter, and Chapters 561, 645 and 671 of this Code; and

c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his agents, employees, principals, subcontractors, materialmen or suppliers in violation of requirements of state statute, city regulation or this Revised Code, which requirements must be met to properly carry out construction activity, a land alteration (as defined in section 561-109 of this Code), sewer work (as defined in section 671-2 of this Code), driveway work (as defined in section 645-421 of this Code) or excavation work (as defined in section 645-431 of this Code) while engaged in any construction activity, land alteration, sewer work, driveway work or excavation work; and

d. Prompt payment to a person, partnership or corporation which is an unknown third party obligee for any:

1. Losses arising out of violations;

2. Expenses necessary to correct violations; and

3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violation of requirements of state statute, city regulation or this Revised Code, which requirements must be met to properly carry out construction activity, a land alteration, sewer work, driveway work, or excavation work on property of the unknown third party obligee, caused by any action of the contractor, his agents, employees, principals, subcontractors, materialmen or suppliers while engaged in any construction activity, land alteration, sewer work or driveway work. However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or improper workmanship violates requirements of state statute, city regulation or this Revised Code, which requirement must be met to

properly carry out construction activity, a land alteration, sewer work, driveway work, or excavation work.

(b) The administrator of the division of compliance may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of ten thousand dollars ($10,000.00) if the city controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to ten thousand dollars ($10,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims which exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

Sec. 875-110. Insurance.

Insurance requirements are met if the person, partnership or corporation secures insurance covering all construction activity accomplished by the listed contractor or under permits obtained by the listed contractor, any land alteration (as defined in section 561-109 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor, all sewer work (as defined in section 671-2 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor, and all driveway work (as defined in section 645-421 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor and thereafter maintains such insurance in full force and effect throughout the license period:

(1) A public liability and property damage insurance policy assuring the listed contractor and naming the Consolidated City of Indianapolis as an "additional assured," providing for the payment of any liability imposed by law on such listed contractor or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the listed contractor in the minimum amounts of five hundred thousand dollars ($500,000.00) for combined bodily injury and property damage coverage of five hundred thousand dollars ($500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars ($100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the administrator of the division of ~~development services~~ compliance.

(2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the listed contractor. A certificate of such insurance shall be delivered to the administrator of the ~~neighborhood and development services~~ division of compliance. This provision shall not apply if the listed contractor has no employees and gives appropriate notice to the division of ~~development services~~ compliance.

The insurance carrier shall give notice both to the listed contractor and the ~~neighborhood and development services~~ division of compliance at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

Sec. 875-111. Approval for listing.

Approval of a person, partnership or corporation as a listed contractor shall be by the board or the administrator of the division of compliance acting on behalf of the board. Upon receipt of such approval the controller shall issue the listing. The listing shall be for a period from January 1 of any year ending in an odd number to December 31 of the following year. No listing shall be issued by the controller to any person, partnership or corporation except as provided in this article.

SECTION 52. Section 875-115 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-115. Hearing and appeal.

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date a written copy of the charges, prepared by the consolidated city, and notice of the time and place of the hearing thereon shall be served upon the listed contractor, either by hand delivery to the charged listed person or to the partner of a charged listed partnership or officer of a charged listed corporation,

or by certified mail with return receipt addressed to the listed contractor at its main place of business as shown by the listed contractor's application for listing. The ten (10) or more days shall run from the date such notice is mailed as shown by the postmark thereon.

(b) The listed contractor may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The consolidated city shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of the evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the listed contractor, in the same manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the listed contractor may appeal therefrom to the director of the department of metropolitan development, by serving a notice of appeal upon the director either in person or by filing it at his office, with a copy thereof delivered to the board at the office of the administrator of the division of ~~development services~~ compliance, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the director of the department of metropolitan development, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The director shall thereupon render such decision as he finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The director's order shall be final and conclusive and be binding upon both the listed contractor and the board.

SECTION 53. Section 875-214 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-214. Inspector status.

The inspector status requirement of section 875-208(4) is met by a person who is employed full time by the ~~neighborhood and development services~~ division of compliance in a position in which he makes or supervises the making of inspections to determine compliance with building standards and procedures relative to electricity, or this article of this chapter. Such a person shall not use a license as an electrical contractor other than with respect to his employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the ~~neighborhood and development services~~ division of compliance and does not meet the requirements of sections 875-216 and 875-217.

SECTION 54. Sections 875-216 and 875-217 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-216. Bond.

(a) Before a license is issued by the ~~neighborhood and development services~~ division of compliance to any person, partnership or corporation, the administrator of such division shall require the applicant to file a surety bond in the amount of ten thousand dollars ($10,000.00). Such a bond shall be maintained in full force and effect for the full period of the license. The bond originally filed with the application for a license or to renew a license shall be for a period of not less than one (1) year. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

(1) Issued by a surety authorized to do business in Indiana;

(2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee;

(3) Conditioned upon:

a. Compliance with requirements set forth in this chapter which must be met to retain licensure; and

b. Prompt payment of all fees owed the consolidated city as set forth in this chapter; and

c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his agents, employees, principals, subcontractors, materialmen or suppliers in violation of

building standards and procedures while engaged in any electrical work or any related construction activity; and

d. Prompt payment to a person, partnership or corporation which is an unknown third party obligee for any:

1. Losses arising out of violations;

2. Expenses necessary to correct violations; and

3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his agents, employees, principals, subcontractors, materialmen or suppliers while engaged in electrical work or any related construction activity.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The ~~administrator~~ of the division of compliance may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of ten thousand dollars ($10,000.00) if the city controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety financial institution relative to this bond or letter of credit is limited to ten thousand dollars ($10,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims which exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

Sec. 875-217. Insurance.

Insurance requirements are met if the person, partnership or corporation secures insurance covering all electrical work and related construction activity accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

(1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars ($500,000.00) for combined bodily injury and property damage coverage or five hundred thousand dollars ($500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars ($100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the administrator of the division of ~~development services~~ compliance.

(2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the administrator of the ~~neighborhood and development services~~ division of compliance. This provision shall not apply if the licensee has no employees and gives appropriate notice to the division of ~~development services~~ compliance.

The insurance carrier shall give notice both to the licensee and the ~~neighborhood and development services~~ division of compliance at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

SECTION 55. Section 875-219 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-219. Board's approval for licensure.

Approval for licensure of a person, partnership or corporation as an electrical contractor shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a majority of the board delegate to one (1) of its officers or the administrator of the division of ~~development services~~ compliance authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-212(1) or the applicant is a partnership or corporation.

Upon delivery of such approval an electrical contractor's license shall be issued by the controller. The licensure period shall be from January 1 of any year ending in an even number to December 31 of the following year. (However, during a transition period from July 1, 1995, to December 31, 1997, licenses may be issued for a longer period of time than two (2) years.) No license shall be issued by the controller to any person, partnership or corporation as an electrical contractor except as provided in this article.

SECTION 56. Section 875-221 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-221. Supervision by licensee.

All electrical work shall be accomplished under the direction and control of either:

(1) The licensed person who applied for the building permit; or

(2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or

(3) If the applicant for the building permit no longer is able or desires to continue his responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership which has a licensed person as a partner or a corporation which has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his notifying (using a form furnished by the division of ~~development services~~ compliance) the administrator of his assumption of the responsibilities and obligations of the applicant for the specified building permit.

The licensed person providing direction and control shall specify materials and work processes and supervise the person or persons accomplishing the electrical work.

SECTION 57. Sections 875-223, 875-224, and 875-225 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-223. License suspension, revocation or determination of ineligibility for renewal for a person.

The board may, under section 875-225, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five (365) days is ineligible for license renewal, if one (1) of the following is shown:

(1) The licensee made any materially false statement of fact either to the board or on his application for license or license renewal; or

(2) The licensee acted fraudulently in the license examination; or

(3) The licensee (but not including licensees who are exempt because of compliance with the requirements of section 875-213 or section 875-214) failed to post and maintain a surety bond and insurance required by section 875-216 or 875-217; or

(4) The licensee acted fraudulently, or with deceit, in his business relationship with other persons, partnerships or corporations with which he dealt in connection with electrical work; or

(5) Electrical work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; or

(6) The licensee failed to correct a violation of building standards and procedures relative to electrical work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the administrator of the division of ~~development services~~ compliance issued a notice of building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the administrator of the division of compliance in writing; or

(7) The licensee has consistently failed to apply for or obtain required applicable permits for electrical work accomplished by the licensee or under his supervision; or

(8) The licensee has consistently failed to timely file certificates of completion and compliance for electrical work relative to which he was the applicant for the permits or applicant representing the transferee of the permits; or

(9) The licensee has consistently failed to give notice of availability for inspection at designated stages of electrical work as required by section 536-402 of this Revised Code; or

(10) The licensee, excluding licensees who meet the inspector status requirement of section 875-214, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of electrical work; or

(11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-216 and 875-217 by meeting the inspector status requirements of section 875-214, but is no longer employed by the division of ~~development services~~ compliance and does not meet the requirements of sections 875-216 and 875-217; or

(12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-216 and 875-217 by meeting the partnership or corporate agent requirements of section 875-213 but, without presently meeting the requirements of sections 875-216 and 875-217, either he:

a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this article; or

b. Has made use of his license other than as an agent of the partnership or corporation named in his application; or

(13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license which has been issued or is delinquent in the payment of fees owed pursuant to this chapter; or

(14) The licensee has failed to give proper supervision to electrical work in accordance with the requirements of section 875-221; or

(15) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

Sec. 875-224. License suspension, revocation or determination of ineligibility for receipt of successor license for partnership or corporation.

The board may, under section 875-225, suspend the license of a partnership or corporation for a period of up to seven hundred thirty (730) days, revoke the license of a partnership or corporation, or determine on the basis of activities carried out while licensed within the previous three hundred sixty-five (365) days that the partnership or corporation is ineligible to receive a successor license, if one (1) of the following is shown:

(1) A materially false statement of fact was made to the board by an agent of the licensee or placed on the licensee's application for license; or

(2) The licensee failed to post and maintain the surety bond and insurance required by sections 875-216 and 875-217; or

(3) Agents of the licensee acted fraudulently or with deceit in its relationship with other persons, partnerships or corporations with which it dealt in connection with electrical work; or

(4) Electrical work for which the licensee was responsible as obtainer of the permit or as transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; or

(5) The licensee failed to correct a violation of building standards and procedures relative to electrical work for which the licensee was responsible as obtainer of the permit or as transferee of the permit, after the administrator of the division of ~~development services~~ compliance issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the administrator of the division of compliance in writing; or

(6) The licensee has consistently failed to obtain required applicable permits for electrical work accomplished by the licensee; or

(7) The licensee has consistently failed to give notice of availability for inspection at designated stages of electrical work as required by section 536-402 of this Revised Code; or

(8) The licensee has consistently failed to timely file certificates of completion and compliance, as required, for electrical work accomplished pursuant to his license; or

(9) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license which has been issued or is delinquent in the payment of fees owed pursuant to this chapter; or

(10) If a partnership, does not have a licensed person as a general partner or employee, or if a corporation, does not have a licensed person as an officer or employee; or

(11) The partnership presently has a partner or the corporation presently has an officer who has a license under this article presently suspended or who has had such a license revoked within the preceding seven hundred thirty (730) days or a determination made of ineligibility of license renewal within the preceding three hundred sixty-five (365) days; or

(12) The partnership presently has a partner or the corporation presently has an officer who, within the previous three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation licensed under this article at the time when actions related to policies or practices of the partnership or corporation occurred which provided the primary basis on which the license of the partnership or corporation was revoked, suspended for more than three hundred sixty-five (365) days, or a determination made of ineligibility for receipt of a successor license; or

(13) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

Sec. 875-225. Hearing and appeal.

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date, a written notice of the general nature of the charges, prepared by the division of ~~development services~~ compliance, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged licensed person or to a partner of a charged partnership or officer of a charged corporation, or by certified mail with return receipt requested addressed to the licensee at his main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made which have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and its licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The division of ~~development services~~ compliance shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee, in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the licensee may appeal therefrom to the director of the department of metropolitan development, by serving a notice of appeal upon the director either in person or by filing it at his office, with a copy thereof delivered to the board at the office of the administrator of the division of ~~development services~~ compliance, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the director of the department of metropolitan development or a representative designated in writing (but not an employee of the division of ~~development services~~ compliance) by the director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The director or his representative shall thereupon render such decisions as he finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the director or his representative shall be final and conclusive and be binding upon both the licensee and the board.

SECTION 58. Sections 875-313 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-313. Inspector status.

The inspector status requirement of section 875-307(4) is met by a person who is employed full time by the ~~neighborhood and development services~~ division of compliance in a position in which he makes or supervises the making of inspections to determine compliance with building standards and procedures relating to heating and cooling work, or this article of this chapter. Such a person shall not use a license as a heating and cooling contractor other than with respect to his employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the ~~neighborhood and development services~~ division of compliance and does not meet the requirements of sections 875-315 and 875-316.

SECTION 59. Sections 875-315 and 875-316 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-315. Bond.

(a) Before a license is issued by the ~~neighborhood and development services~~ division of compliance to any person, partnership or corporation, the administrator of such division shall require the applicant to file a surety in the amount of five thousand dollars ($5,000.00). Such a bond shall be maintained in full force and effect for the full period of the license. The bond originally filed with the application for a license or to renew a license shall be for a period of not less than one (1) year. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

(1) Issued by a surety authorized to do business in Indiana;

(2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee;

(3) Conditioned upon:

a. Compliance with requirements set forth in this chapter which must be met to retain licensure; and

b. Prompt payment of all fees owed the consolidated city as set forth in this chapter; and

c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his agent, employees, principals, subcontractors, materialmen or suppliers in violation of building standards and procedures while engaged in any heating and cooling work or any related construction activity; and

d. Prompt payment to a person, partnership or corporation which is an unknown third party obligee for any:

1. Losses arising out of violations;

2. Expenses necessary to correct violations; and

3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his agents, employees, principals, subcontractors, materialmen or suppliers while engaged in heating and cooling work or any related construction activity.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The administrator may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of five thousand dollars ($5,000.00) if the city controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to five thousand dollars ($5,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims which exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

Sec. 875-316. Insurance.

The insurance requirements are met if the person, partnership or corporation secures insurance covering all heating and cooling work and any related construction activity accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

(1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars ($500,000.00) for combined bodily injury and property damage coverage of five hundred thousand dollars ($500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars ($100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the administrator of the division of ~~development services~~ compliance.

(2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the administrator of the ~~neighborhood and development services~~ division of compliance. This provision shall not apply if the licensee has no employees and gives appropriate notice to the division of ~~development services~~ compliance.

The insurance carrier shall give notice both to the licensee and the ~~neighborhood and development services~~ division of compliance at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

SECTION 60. Section 875-318 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-318. Board's approval for licensure.

Approval for licensure of a person, partnership or corporation as a heating and cooling contractor of the appropriate type shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a majority of the board delegate to one (1) of its officers or the administrator of the division of ~~development services~~ compliance authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-311(1) or the applicant is a partnership or corporation.

Upon delivery of such approval a heating and cooling contractor's license of the appropriate type shall be issued by the controller. The licensure period shall be from January 1 of any year ending in an even number to December 31 of the following year. (However, during a transition period from July 1, 1995, to December 31, 1997, licenses may be issued for a longer period of time than two (2) years.) No license shall be issued by the controller to any person, partnership or corporation as a heating and cooling contractor except as provided in this article.

SECTION 61. Section 875-320 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-320. Supervision by licensee.

All heating and cooling work shall be accomplished under the direction and control of either:

(1) The licensed person who applied for the building permit; or

(2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or

(3) If the applicant for the building permit no longer is able or desires to continue his responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership which has a licensed person as a partner or a corporation which has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his notifying (using a form furnished by the office of the division of ~~development services~~ compliance) the administrator of his assumption of the responsibilities and obligations of the applicant for the specified building permit.

The licensed person providing direction and control shall specify work processes and supervise the person or persons accomplishing the heating and cooling work. Such licensed person or a competent person responsible to him must be present at the site when any significant heating and cooling work occurs.

SECTION 62. Sections 875-322, 875-323, and 875-324 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-322. License suspension, revocation or determination of ineligibility for renewal for a person.

The board may, under section 875-324, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person, or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five (365) days is ineligible for license renewal, if one (1) of the following is shown:

(1) The licensee made any materially false statement of fact either to the board or on his application for license or license renewal; or

(2) The licensee acted fraudulently in the license examination; or

(3) The licensee (but not including licensees who are exempt because of compliance with the requirements of section 875-312 or section 875-313) failed to post and maintain the surety bond and insurance required by sections 875-315 and 875-316; or

(4) The licensee acted fraudulently, or with deceit, in his relationship with other persons, partnerships or corporations with which he dealt in connection with heating and cooling work; or

(5) Heating and cooling work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; or

(6) The licensee failed to correct a violation of building standards and procedures relative to heating and cooling work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the administrator of the division of ~~development services~~ compliance issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation,

revocation of permit or stop-work order, or in the instance where the period of ten (10) days was not sufficient, such longer period of time as was fixed by the administrator in writing; or

(7) The licensee has consistently failed to apply for or obtain required applicable permits for heating and cooling work accomplished by the licensee or under his supervision; or

(8) The licensee has consistently failed to give notice of availability for inspection at designated stages of heating and cooling work as required by section 536-402 of this Revised Code; or

(9) The licensee has consistently failed to timely file certificates of completion and compliance for heating and cooling work relative to which he was the applicant for the permits; or

(10) The licensee, excluding licensees who meet the inspector status requirement of section 875-313, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of heating and cooling work; or

(11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-315 and 875-316 by meeting the inspector status requirements of section 875-222, but is no longer employed by the division of ~~development services~~ compliance and does not meet the requirements of sections 875-315 and 875-316; or

(12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-315 and 875-316 by meeting the partnership or corporate agent requirements of section 875-312, but without presently meeting the requirements of sections 875-315 and 875-316, either he:

a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this division; or

b. Has made use of his license other than as an agent of the partnership or corporation named in his application; or

(13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license which has been issued or is delinquent in other fees owed pursuant to this chapter; or

(14) The licensee has failed to give proper supervision to heating and cooling work in accordance with requirements of section 875-320; or

(15) The licensee holding a heating and cooling license other than a "heavy commercial (unrestricted)" license has accomplished (without supervision by a licensee of the appropriate type) or supervised the accomplishment of heating and cooling work without having the type license which is required for such construction activity; or

(16) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

Sec. 875-323. License suspension, revocation or determination of ineligibility for receipt of a successor license for a partnership or corporation.

The board may, under section 875-324, suspend the license of a partnership or corporation for a period of up to seven hundred thirty (730) days, revoke the license of a partnership or corporation, or determine on the basis of activities carried out while licensed within the previous three hundred sixty-five (365) days that the partnership or corporation is ineligible to receive a successor license, if one (1) of the following is shown:

(1) A materially false statement of fact was made to the board by an agent of the licensee or placed on the licensee's application for license; or

(2) The licensee failed to post and maintain the surety bond and insurance required by sections 875-315 and 875-316; or

(3) An agent of the licensee acted fraudulently or with deceit in its relationship with other persons, partnerships or corporations with which it dealt in connection with heating and cooling work; or

(4) Heating and cooling work for which the licensee was responsible as obtainer of the permit or as transferee of the permit was performed either incompetently or in such manner that it does not

meet standards of reasonable workmanship or compliance with building standards and procedures; or

(5) The licensee failed to correct a violation of building standards and procedures relative to heating and cooling work for which the licensee was responsible as obtainer of the permit or as transferee of the permit, after the administrator of the division of ~~development services~~ compliance issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of notice of the building code violation, revocation of permit, or stop-work order, or in the instance where a period of ten (10) days was not sufficient such longer period of time as was fixed by the administrator in writing; or

(6) The licensee has consistently failed to obtain required applicable permits for heating and cooling work; or

(7) The licensee has consistently failed to give notice of availability for inspection at designated stages of heating and cooling work as required by section 536-402 of this Revised Code; or

(8) The licensee has consistently failed to timely file certificates of completion and compliance, as required, for heating and cooling work accomplished pursuant to his license; or

(9) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license which has been issued or is delinquent in the payment of fees owed pursuant to this chapter; or

(10) If a partnership, does not have a licensed person as a general partner or employee, or if a corporation, does not have a licensed person as an officer or employee; or

(11) The partnership presently has a partner or the corporation presently has an officer who has a license under this article presently suspended or who has had such a license revoked within the preceding seven hundred thirty (730) days or a determination made of ineligibility for license renewal within the preceding three hundred sixty-five (365) days; or

(12) The partnership presently has a partner or the corporation presently has an officer who, within the previous three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation licensed under this article at a time when actions related to policies or practices of the partnership or corporation occurred which provided the primary basis on which the license of the partnership or corporation was revoked, suspended for more than three hundred sixty-five (365) days, or a determination made of ineligibility for receipt of a successor license; or

(13) Heating and cooling work for which the licensee, holding a heating and cooling license other than a "heavy commercial (unrestricted)" license, was responsible as obtainer of the permit or as transferee of the permit was performed without the licensee having the type of license which is required for such work; or

(14) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

Sec. 875-324. Hearing and appeal.

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date, a written notice of the general nature of the charges, prepared by the division of ~~development services~~ compliance, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged licensed person or to a partner of a charged partnership or officer of a charged corporation or by certified mail with return receipt requested, addressed to the licensee at his main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made which have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and a licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The division of ~~development services~~ compliance shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of the evidence presented at the hearing, the board shall make findings

and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the licensee may appeal therefrom to the director of the department of metropolitan development, by serving a notice of appeal upon the director either in person or by filing it at his office, with a copy thereof delivered to the board at the office of the administrator of the division of ~~development services~~ compliance, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the director of the department of metropolitan development or a representative designated in writing (but not an employee of the division of ~~development services~~ compliance) by the director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The director or his representative shall thereupon render such decision as he finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the director or his representative shall be final and conclusive and be binding upon the licensee and the board.

SECTION 63. Section 875-401 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-401. License required.

(a) Licensure as a wrecking contractor of the appropriate type is required to either engage or offer to engage in the business, trade or calling of demolishing, dismantling, dismembering, razing or removing structures; provided, however, that licensure as a wrecking contractor is not required:

(1) To wreck a one-story detached accessory structure containing less than five hundred seventy-seven (577) square feet of floor area which is located on the same premises as a one- or two-family residential structure or to wreck a structure containing less than five hundred (500) square feet of floor area; or

(2) To wreck a one-story, one- or two-family residential structure if:

a. The wrecking is accomplished by the person who owns the structure; and

b. The person is a previous occupant of the structure; and

c. No part of the structure is located nearer than ten (10) feet to another structure not owned by the person accomplishing the wrecking or any street, alley or sidewalk; and

d. The wrecking will not create a substantial potential health or safety hazard; and

e. If deemed reasonably necessary by the administrator of the ~~neighborhood and development services~~ division of compliance, the person who will accomplish the wrecking demonstrates that the wrecking activity is covered by a public liability and property damage insurance policy, in amounts established by the administrator (but not less than fifty thousand dollars ($50,000.00) for personal injury or death and twenty-five thousand dollars ($25,000.00) for property damage), naming the person doing the wrecking and the Consolidated City of Indianapolis as the insured; or

(3) To wreck a one-story, wood-frame structure that is not a residential structure if:

a. The wrecking is accomplished by the person who owns the structure or by permanent, full-time employees of the partnership or corporation which owns the structure; and

b. The person, partnership or corporation which owns the premises where the structure is located is in possession of the premises where the structure is located; and

c. No part of the structure is located nearer than ten (10) feet to another structure not owned by the person, partnership or corporation accomplishing the wrecking or any street, alley or sidewalk; and

d. The wrecking will not create a substantial potential health or safety hazard; and

e. If deemed reasonably necessary by the administrator of the ~~neighborhood and development services~~ division of compliance, the person, partnership or corporation who will accomplish the wrecking demonstrates that the wrecking activity is covered by a public liability and property damage insurance policy in amounts established by the administrator (but not less than fifty thousand dollars ($50,000.00) for personal injury or death and twenty-five thousand dollars ($25,000.00) for property damage), naming the person doing the wrecking and the Consolidated City of Indianapolis as the insured; or

(4) To wreck or dismantle a structure or part of a structure if:

a. The structure to be demolished or dismantled is a water storage tank, gas storage tank, or other structure which has some unique characteristic requiring specialized expertise beyond that of the typical licensed demolition contractor, or that the demolition or dismantling work involves some unique circumstance requiring such specialized expertise; and

b. The person responsible for supervising the demolition or dismantling work demonstrates his or her familiarity with this chapter and chapter 536 and his or her expertise and experience in demolishing or dismantling the type of structure or part of the structure to be demolished or dismantled; and

c. The person, partnership or corporation submits proof of bond and insurance in the amounts required for the type license normally required to demolish or dismantle the structure or part of the structure and naming the person, partnership or corporation doing the demolition or dismantling work and the Consolidated City of Indianapolis as insured; and

d. The person, partnership or corporation is listed as a general contractor under article I of this chapter prior to obtaining any wrecking permits or accomplishing any demolition or dismantling work.

The determinations under this paragraph (4) are to be made by the board of wrecking examiners or an employee of the department of metropolitan development designated by that board as qualified to make such determination. The board may appoint an alternate qualified employee for this designee.

(b) In determining whether to issue a permit for wrecking pursuant to paragraphs (1) through (3) above, the administrator of the ~~neighborhood and development services~~ division of compliance may consult with and seek the advice of the board of wrecking examiners.

(c) A determination by the administrator under paragraphs (1) through (3) or by the board's designee under paragraph (4) not to allow the nonlicensed person to accomplish the work under this section may be appealed to the board of wrecking examiners for reconsideration.

(d) A person not licensed under this article who is employed by a licensed wrecking contractor may, however, accomplish wrecking while working under the direction and control of a person who is a licensed wrecking contractor. The scope of activity of such nonlicensed person shall not extend beyond that allowed by the license type of the licensed wrecking contractor providing direction and control over the nonlicensed person. Such nonlicensed person shall not enter into or offer to enter into a contractual relationship with a consumer to himself engage in wrecking.

(e) Construction activity which this article allows licensed wrecking contractors to carry out is hereafter referred to in this article as "wrecking."

SECTION 64. Section 875-413 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-413. Inspector status.

The inspector status requirement of section 875-407(4) is met by a person who is employed full time by the ~~neighborhood and development services~~ division of compliance in a position in which he makes or supervises the making of inspections to determine compliance with building standards and procedures relating to wrecking, article II provisions or this article of this chapter. Such a person shall not use a license as a wrecking contractor other than with respect to his employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the ~~neighborhood and development services~~ division of compliance and does not meet the requirements of sections 875-415 and 875-416.

SECTION 65. Sections 875-415 and 875-416 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-415. Bond.

(a) Before a license is issued by the ~~neighborhood and development services~~ division of compliance to any person, partnership or corporation, the administrator of the division shall require the applicant to file a surety bond in the amount of thirty thousand dollars ($30,000.00) in the case of a type A license, twenty thousand dollars ($20,000.00) in the case of a type B license and ten thousand dollars ($10,000.00) in the case of a type C license. Such a bond shall be maintained in full force and effect for the full period of the license. The bond originally filed with the application for a license or to renew a license shall be for a period of not less than one (1) year. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

(1) Issued by a surety authorized to do business in Indiana;

(2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee;

(3) Conditioned upon:

a. Compliance with requirements set forth in this chapter which must be met to retain licensure; and

b. Prompt payment of all fees owed the consolidated city as set forth in this chapter; and

c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his agents or employees, principals, subcontractors, materialmen or suppliers in violation of building standards and procedures while engaged in any wrecking or any related construction activity; and

d. Prompt payment to a person, partnership or corporation which is an unknown third party obligee for any:

1. Losses arising out of violation;

2. Expenses necessary to correct violations; and

3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his agents, employees, principals, subcontractors, materialmen or suppliers while engaged in wrecking or any related construction activity.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The administrator may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of thirty thousand dollars ($30,000.00) in the case of a type A license, twenty thousand dollars ($20,000.00) in the case of a type B license and ten thousand dollars ($10,000.00) in the case of a type C license if the city controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to thirty thousand dollars ($30,000.00) in the case of a type A license, twenty thousand dollars ($20,000.00) in the case of a type B license and ten thousand dollars ($10,000.00) in the case of a type C license. A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims which exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

Sec. 875-416. Insurance.

The insurance requirements are met if the person, partnership or corporation secures insurance covering all wrecking and related construction activity accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

(1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars ($500,000.00) for combined bodily injury and property damage coverage or five hundred thousand dollars ($500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons, and one hundred thousand dollars ($100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the administrator of the division of ~~development services~~ compliance.

(2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the administrator of the ~~neighborhood and development services~~ division of compliance. This provision shall not apply if the licensee has no employees and gives appropriate notice to the ~~neighborhood and development services~~ division of compliance.

The insurance carrier shall give notice both to the licensee and the ~~neighborhood and development services~~ division of compliance at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

SECTION 66. Section 875-418 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-418. Board's approval for licensure.

(a) Approval for licensure of a person, partnership or corporation as a wrecking contractor of the appropriate type shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a majority of the board delegate to one (1) of its officers or the administrator of the ~~neighborhood and development services~~ division of compliance authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-411(1) or the applicant is a partnership or corporation.

(b) Upon delivery of such approval, a wrecking contractor's license of the appropriate type shall be issued by the controller. The license period shall be from January 1 of any year ending in an even number to December 31 of the following year. (However, during a transition period from July 1, 1995, to December 31, 1997, licenses may be issued for a longer period of time than two (2) years). No license shall be issued by the controller to any person, partnership or corporation as a wrecking contractor except as provided in this section.

SECTION 67. Sections 875-420 through 875-423 of the "Revised Code of the Consolidated City and County," inclusive, hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-420. Supervision by licensee.

(a) All wrecking shall be accomplished under the direction and control of either:

(1) The licensed person who applied for the building permit; or

(2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or

(3) If the applicant for the building permit no longer is able or desires to continue his responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership which has a licensed person as a partner or a corporation which has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his notifying (using a form furnished by the ~~neighborhood and development services~~ division of compliance) the administrator

of the ~~neighborhood and development services~~ division of compliance of his assumption of the responsibilities and obligations of the applicant for the specified building permit.

(b) The licensed person providing direction and control shall specify work processes and supervise the person or persons accomplishing the wrecking. Such licensed person or a competent person responsible to him must be present at the site when any significant wrecking occurs.

Sec. 875-421. License suspension, revocation or determination of ineligibility for renewal for a person.

The board may, under section 875-423, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person, or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five (365) days is ineligible for license renewal, if one (1) of the following is shown:

(1) The licensee made any materially false statement of fact either to the board or on his application for license renewal; or

(2) The licensee acted fraudulently in the license examination; or

(3) The licensee (but not including licensees who are exempt because of compliance with the requirements of section 875-412 or section 875-413) failed to post and maintain the surety bond and insurance required by sections 875-415 and 875-416; or

(4) The licensee acted fraudulently or with deceit in his relationship with other persons, partnerships or corporations with which he dealt in connection with wrecking; or

(5) Wrecking for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; or

(6) The licensee failed to correct a violation of building standards and procedures relative to wrecking for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the administrator of the ~~neighborhood and development services~~ division of compliance issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violations(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the administrator of the division of compliance in writing; or

(7) The licensee has consistently failed to apply for or obtain required applicable permits for wrecking accomplished by the licensee or under his supervision; or

(8) The licensee has consistently failed to give notice of availability for inspection at designated stages of wrecking as required by section 536-402 of this Revised Code; or

(9) The licensee has consistently failed to timely file certificates of completion and compliance for wrecking relative to which he was the applicant for the permits or applicant representing the transferee of the permits; or

(10) The licensee, excluding licensees who meet the inspector status requirement of section 875-409, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of wrecking; or

(11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-415 and 875-416 by meeting the inspector status requirements of section 875-413, but is no longer employed by the division of ~~development services~~ compliance and does not meet the requirements of sections 875-415 and 875-416; or

(12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-415 and 875-416 by meeting the partnership or corporate agent requirements of section 875-408 but, without presently meeting the requirements of sections 875-415 and 875-416, either he:

a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this article; or

b. Has made use of his license other than as an agent of the partnership or corporation named in his application; or

(13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license which has been issued or is delinquent in other fees owed pursuant to this chapter; or

(14) The licensee has failed to give proper supervision to wrecking in accordance with the requirements of section 875-420; or

(15) The licensee holding a type B or type C wrecking license has accomplished (without supervision by a licensee of the appropriate type) or supervised the accomplishment of wrecking without having the type license which is required for such construction activity; or

(16) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

Sec. 875-422. License suspension, revocation or determination of ineligibility for receipt of a successor license for a partnership or corporation.

The board may, under section 875-419, suspend the license of a partnership or corporation for a period of up to seven hundred thirty (730) days, revoke the license of a partnership or corporation, or determine on the basis of activities carried out while licensed within the previous three hundred sixty-five (365) days that the partnership or corporation is ineligible to receive a successor license, if one (1) of the following is shown:

(1) A materially false statement of fact was made to the board by an agent of the licensee or placed on the licensee's application for license; or

(2) The licensee failed to post and maintain a surety bond and insurance required by sections 875-415 and 875-416; or

(3) An agent of the licensee acted fraudulently or with deceit in its relationship with other persons, partnerships or corporations with which it dealt in connection with wrecking; or

(4) Wrecking for which the licensee was responsible as obtainer of the permit or as transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; or

(5) The licensee failed to correct a violation of building standards and procedures relative to wrecking for which the licensee was responsible as obtainer of the permit or as transferee of the permit, after the administrator of the ~~neighborhood and development services~~ division of compliance issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the administrator of the division of compliance in writing; or

(6) The licensee has consistently failed to obtain required applicable permits for wrecking accomplished by the licensee; or

(7) The licensee has consistently failed to give notice of availability for inspection at designated stages of wrecking as required by section 536-402 of this Revised Code; or

(8) The licensee has consistently failed to timely file certificates of completion and compliance, as required, for wrecking accomplished pursuant to his license; or

(9) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license which has been issued or is delinquent in the payment of fees owed pursuant to this chapter; or

(10) If a partnership, does not have a licensed person as a general partner or employee, or if a corporation, does not have a licensed person as an officer or employee; or

(11) The partnership presently has a partner or the corporation presently has an officer who has a license under this article presently suspended or who has had such a license revoked within the preceding seven hundred thirty (730) days or a determination made of ineligibility of license renewal within the preceding three hundred sixty-five (365) days; or

(12) The partnership presently has a partner or the corporation presently has an officer who, within the previous three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation licensed under this article at the time when actions related to policies or practices of the partnership or corporation occurred which provided the primary basis on which the license of the partnership or corporation was revoked, suspended for more than three hundred sixty-five (365) days, or a determination made of ineligibility for receipt of a successor license; or

(13) Wrecking, for which the licensee holding a type B or type C wrecking license is responsible as obtainer of the permit or as transferee of the permit, was performed without the licensee having the type license which is required for such wrecking activity; or

(14) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

Sec. 875-423. Hearing and appeal.

(a) The date and place for a revocation or suspension hearing shall be fixed by the board, and at least ten (10) days before such date a written notice of the general nature of the charges, prepared by the ~~neighborhood and development services~~ division of compliance, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged person or to a partner of a charged partnership or officer of a charged corporation, or by certified mail with return receipt requested, addressed to the licensee at his main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made which have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and a licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel and produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The ~~neighborhood and development services~~ division of compliance shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee, in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of said order, the licensee may appeal therefrom to the director of the department of metropolitan development, by serving a notice of appeal upon the director either in person or by filing it at his office, with a copy thereof delivered to the board at the office of the administrator of the ~~neighborhood and development services~~ division of compliance, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the director of the department of metropolitan development or a representative designated in writing (but not an employee of the ~~neighborhood and development services~~ division of compliance) by the director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The director or his representative shall thereupon render such decision as he finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the director or his representative shall be final and conclusive and be binding upon both the licensee and the board.

SECTION 68. Section 875-501 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-501. Registration.

(a) Any person or corporation which is licensed by the Indiana Plumbing Commission as a plumbing contractor pursuant to Public Law 188 of the Acts of 1972, as amended, and which performs any work within the Consolidated City of Indianapolis which it is privileged to accomplish pursuant to such license shall register with the ~~neighborhood and development services~~ division of compliance.

(b) Such registration shall be accomplished by paying a fee specified by section 875-701 and by furnishing the following information on a form supplied by the ~~neighborhood and development services~~ division of compliance:

(1) Name of business;

(2) Legal status (whether sole proprietor, member of partnership or corporation);

(3) Address of business;

(4) The identification number of the license issued by the Indiana Plumbing Commission;

(5) In the instance of a corporation which is a licensed plumbing contractor, the name of all corporate officers or employees who hold a plumbing contractor's license and are authorized by the corporation to obtain building permits on behalf of the corporation for construction activity relative to which state licensure as a plumbing contractor is required.

(c) Such registration shall be for a two-year period, beginning on January 1 of any year ending in an even number and expiring on December 31 of the following year.

(d) Such registration shall terminate during the period of registration at such time as the person or corporation is not licensed by the Indiana Plumbing Commission as a plumbing contractor.

SECTION 69. Section 875-702 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 875-702. Examination fees.

Fees for examinations which are required as a condition to contractor licensure shall be in the amounts following, or be in the amounts established as the actual cost incurred by the ~~neighborhood and development services~~ division of compliance in having an outside organization prepare and grade such examinations, whichever amount shall be greater:

(1) Electrical examination fee: One hundred dollars ($100.00).

(2) Heating and cooling examination fee: One hundred dollars ($100.00).

(3) Wrecking examination fee: One hundred dollars ($100.00).

SECTION 70. Section 931-101 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 931-101. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Attendant parking means the practice of having the motor vehicle handled by the registrant between the motor vehicle reservoir area and the parking area, and between the parking area and the exits.

Commercial parking facility means a lot or building which is used on a regular basis to provide space for the parking of more than five (5) motor vehicles. Any combination of one (1) or more lots or buildings which are both located contiguous to another lot or building or across a street or alley from another lot or building, and are operated by the same person shall be considered one (1) commercial parking facility; however, a lot or building which is provided solely for one (1) or more of the following uses:

(1) By an employer for use of the employer's employees;

(2) By a landlord for use of the landlord's tenants;

(3) By a merchant or professional, selling goods or services, for use of the merchant's or professional's exclusive customers; or

(4) By the owner of the lot or building, or by a charitable organization, for a period of no more than fourteen (14) consecutive days, and no more than thirty (30) days in a calendar year, for use in

connection with a distinct special event or activity outside the geographic area bounded by North, East, South, and West Streets;

shall not be considered a commercial parking facility.

Division of ~~permits~~ compliance means the division of compliance of the ~~city~~ department of metropolitan development ~~which is responsible for the enforcement of land use requirements and the promotion of responsible development through inspections and the issuance of permits~~.

Motor vehicle means any self-propelled wheeled vehicle similar to an automobile, truck, bus or motorcycle.

Motor vehicle reservoir area means the area at the entrance of a commercial parking facility between the property line and the point ten (10) feet beyond the point at which a ticket or claim check is given, a fee is paid or the registrant takes physical control of the motor vehicle for the purpose of handling it.

SECTION 71. Section 931-202 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 931-202. Registration information required; plot plan.

(a) A registration required by this article shall be made to the controller upon a registration form approved first by the division of ~~permits~~ compliance. The form shall include the following information and any other information which the division of ~~permits~~ compliance shall require:

(1) The name and address of all persons who have a fee or leasehold interest in the real property on which the commercial parking facility is to be located;

(2) The name and address of the person who proposes to operate the commercial parking facility; if the registrant is a firm, the name and address of each partner shall be given, and if the registrant is a corporation, the name and address of the resident agent and president shall be given;

(3) The address of the commercial parking facility and legal description of the real estate on which it is to be located;

(4) the number of square feet of the commercial parking facility, and the type of ground surface, pavement or floor surface;

(5) The vehicle capacity of the commercial parking facility; and

(6) The nature of the drainage system for any commercial parking facility lot which was constructed or placed in operation after July 1, 1971.

(b) A registrant under this article shall submit with the registration form a scale drawing or plot plan of the commercial parking facility, which shows the configuration of parking spaces, aisles, entrances, exits, barriers, outdoor signs, and motor vehicle reservoir areas; however, a registrant shall not be required to comply with this subsection if:

(1) The commercial parking facility only uses attendant parking;

(2) A scale drawing or plot plan which accurately reflects the information required by this subsection is on file in the division of ~~permits~~ compliance, and is identified in the form.

SECTION 72. Section 931-204 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 931-204. Investigation by division of ~~permits~~ compliance.

Prior to the approval or renewal of a registration under this article, the division of ~~permits~~ compliance shall investigate whether the commercial parking facility is in compliance with the provisions of this chapter and other applicable ordinances and statutes, and report its findings to the controller.

SECTION 73. Sections 931-206 and 931-207 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 931-206. Registration term; renewals.

(a) All registrations issued under this article shall be valid for a period of one (1) year.

(b) Prior to the time a registration under this chapter is renewed, the division of ~~permits~~ compliance shall inspect the commercial parking facility. If it is determined by the division of ~~permits~~ compliance that the commercial parking facility is in compliance with the provisions of this chapter, the controller shall renew the registration automatically and without application for renewal by the registrant, unless at the time of renewal the registration:

(1) Has been revoked or suspended; or

(2) Is the subject of administrative or judicial proceedings which have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings.

Sec. 931-207. Report of changes of circumstances.

If changes occur relative to a commercial parking facility during the time a registration is in force, of such a nature as to make the information stated on the registration form inaccurate or incomplete, the registrant shall supply corrected information in writing within thirty (30) days to the division of ~~permits~~ compliance.

SECTION 74. Sections 931-209 and 931-210 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 931-209. Temporary commercial parking facilities.

(a) For purposes of this section, the term temporary commercial parking facility means and includes a commercial parking facility which is used as such:

(1) For no more than three (3) periods of thirty (30) days or less, and no more than a total of forty-five (45) days in a calendar year; or

(2) For no more than two (2) consecutive years, upon a showing that the owner of the land or building intends to develop it for a specified purpose other than a commercial parking facility, and that maintenance of the land or building in compliance with all the requirements of this chapter for such a limited period of time would cause undue economic waste.

(b) All provisions of this chapter are applicable in full to temporary commercial parking facilities unless modified or exempted by this section.

(c) The registration of a temporary commercial parking facility shall be made with the controller, shall meet the applicable requirements of this article for registration forms, and shall be submitted to the controller at least fourteen (14) calendar days prior to the anticipated first day of use. The registration form shall, in addition to the requirements of this article, also state the duration and reason for the temporary use.

(d) The following additional exemptions or modifications of this chapter shall be effective with respect to temporary commercial parking facilities:

(1) Conspicuous outlining of motor vehicle reservoir areas with pavement paint shall not be required;

(2) The provisions of this chapter which relate to drainage and surfacing shall not apply;

(3) The provisions of this chapter which relate to wheel guards shall apply at the discretion of the division of ~~permits~~ compliance; and

(4) The provisions of this chapter which relate to signs are modified to permit temporary signs, and the "first hour" rate shall be posted on the sign unless hourly rates are charged.

Sec. 931-210. Revocation.

(a) The controller shall revoke any commercial parking facility registration issued under this article, upon delivery by the division of ~~permits~~ compliance of its written certification that the registrant:

(1) Has failed, after having been notified in writing and given a period of twenty (20) days to do so, to correct an inaccurate statement of material importance in the registration form, either which was inaccurate as originally made or which became inaccurate because of changes which occurred relative to the commercial parking facility after the date of submission; or

(2) Has knowingly made any false statement in the registration form.

(b) The controller may revoke any commercial parking facility registration if, upon investigation and after a hearing, the controller finds the registrant has failed, after having been notified in writing and given a period of ten (10) days to do so, to properly maintain a bond or insurance policy as required by this article.

SECTION 75. Sections 931-302 and 931-303 of the "Revised Code of the Consolidated City and County" hereby are amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 931-302. Surfacing and barriers.

(a) The ground or floor surface of every commercial parking facility shall be covered with concrete, brick, stone slab, asphaltic pavement or a similar durable and dust-free surface which meets the approval of the division of ~~permits~~ compliance. The ground or floor surface of the commercial parking facility shall be such as to provide a smooth, level surface for parking and shall be free of depressions, gaps, holes or similar surface aberrations. On due cause shown, the division of ~~permits~~ compliance may, in writing, allow the use, for a period of time not exceeding six (6) months after the commercial parking facility is opened, of a commercial parking facility which does not conform to this subsection.

(b) The motor vehicle parking area in every commercial parking facility shall be enclosed by barriers, except at places of entrance and exit. If a motor vehicle parking and storage area abuts a building, barriers shall be erected to prevent motor vehicles from striking the building. Such barriers shall be sufficient to stop a motor vehicle rolling at a rate of speed of five (5) miles per hour. The division of ~~permits~~ compliance, upon written request by the registrant, shall have the power to modify or waive this subsection where it is deemed by the division of ~~permits~~ compliance to be unnecessary and unreasonably burdensome.

Sec. 931-303. Entrances, exits and required reservoir area.

(a) Each commercial parking facility shall have at least one (1) entrance and exit, which may or may not be combined, which shall be adequate to afford safe and efficient ingress and egress to the commercial parking facility.

(b) Each commercial parking facility shall have a motor vehicle reservoir area at each entrance at which a ticket or claim check is given, a fee is paid, or the registrant under this chapter takes physical control of the motor vehicle for the purpose of handling it. In commercial parking facilities that consist of less than fifteen thousand (15,000) square feet of area used for aisles and parking, the motor vehicle reservoir area shall contain three (3), nine-foot by twenty-foot spaces. In all other commercial parking facilities, the motor vehicle reservoir area shall consist of four (4), nine-foot by twenty-foot spaces. The motor vehicle reservoir area shall be conspicuously outlined with pavement paint and shall not be used for the parking or storage of motor vehicles, except when all parking spaces are filled. On good cause shown, the division of ~~permits~~ compliance may, in writing, allow the use of a commercial parking facility which has a motor vehicle reservoir area which does not conform to the requirements of this subsection.

SECTION 76. Section 931-306 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 931-306. Landscaping requirements for commercial parking facilities not in a building.

(a) Any commercial parking facility that was constructed or placed in operation after July 1, 1971, and in which motor vehicles are not parked within a building, shall comply with the landscape requirements of this section. Any commercial parking facility that was constructed or placed in operation on or before July 1, 1971, and in which motor vehicles are not parked within a building, shall not be altered or modified so as to put it in further conflict with this section. If, however, a provision of a zoning ordinance, variance grant, parole covenant or commitment imposes a more stringent landscape and screening requirement than is found

in this section, the provisions of the zoning ordinance, variance grant, parole covenant or commitment shall be controlling.

(b) Yard requirements include the following.

(1) Ten (10) percent of the lot surface area shall be devoted to yard area. "Lot surface area" shall not be considered to include a street right-of-way. Each yard shall be planted and adequately maintained in ground cover, which may include grass, and shrubbery or trees and shall be raised and defined by a six-inch curb.

(2) Part of the yard area requirement shall be met by providing and maintaining a yard (buffer yard) at least five (5) feet in depth along each property line, except at places of entrance and exit, which is contiguous to a street or residential district. For the purpose of this subsection, the term "street" shall mean all designated streets except for any street which is less than thirty (30) feet in width and located within the geographic area bounded by North, East, South and West Streets.

(3) An architectural screen may be permitted in lieu of the buffer yard, upon approval of the division of ~~permits~~ compliance as to design, material and placement of the architectural screen. The architectural screen shall be a wall or fence of ornamental block or brick, or a combination thereof. For each linear foot of architectural screen, the required number of square feet of yard area shall be reduced by two (2) square feet.

(c) Tree requirements include the following.

(1) A minimum of one (1) live tree of a three-inch caliper size or larger for every two thousand five hundred (2,500) square feet of lot surface area shall be planted and maintained. The trees shall be located in the yard area.

(2) Where an architectural screen is not permitted in lieu of a buffer yard, one (1) of the required trees shall be planted and maintained in the buffer yard for each fifty (50) linear feet of buffer yard.

(d) The division of ~~permits~~ compliance, upon request by the registrant and upon receiving a suitable alternative plan which meets the general objectives of this section, shall have the power to modify or waive, in writing, any landscape requirements which are deemed by the division of ~~permits~~ compliance to be unfeasible or unreasonably burdensome.

SECTION 77. Section 961-708 of the "Revised Code of the Consolidated City and County" hereby is amended by the deletion of the language which is stricken-through, and by the addition of the language which is underscored, to read as follows:

Sec. 961-708. Enforcement.

Inspections may be made and action to enforce the provisions of this article may be taken by the division of ~~permits~~ compliance of the ~~city~~ department of metropolitan development, the office of the controller, or by any law enforcement agency. The division of ~~permits~~ compliance shall be responsible for making periodic inspections of cafe activity carried out in sidewalk sales areas.

SECTION 78. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 79. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 80. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

PROPOSAL NO. 699, 2001. Councillor Tilford reported that the Municipal Corporations Committee heard Proposal No. 699, 2001 on January 14, 2002. The proposal, sponsored by Councillors Tilford and Short, initiates committee review of proposed IndyGo debt issuance not

to exceed $5 million. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Nytes commended IndyGo for laying out the impact this debt issuance would have on the long-term financial plan.

Councillor Tilford moved, seconded by Councillor Short, for adoption. Proposal No. 699, 2001 was adopted on the following roll call vote; viz:

25 YEAS: Bainbridge, Boyd, Bradford, Brents, Cockrum, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Horseman, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Nytes, Sanders, Schneider, SerVaas, Short, Smith, Soards, Tilford
0 NAYS:
4 NOT VOTING: Black, Borst, Gray, Talley

Proposal No. 699, 2001 was retitled SPECIAL RESOLUTION NO. 6, 2002, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 6, 2002

A PROPOSAL FOR A SPECIAL RESOLUTION concerning the results of the Council's review of the proposed issuance by the Indianapolis Public Transportation Corporation of its General Obligation Bonds in an aggregate principal amount not to exceed Five Million Dollars ($5,000,000) and approving and authorizing other actions in respect thereto.

WHEREAS, the Board of Directors (the "Board") of the Indianapolis Public Transportation Corporation ("IPTC"), has adopted a preliminary determination resolution making a preliminary determination to issue general obligation bonds in the aggregate principal amount not to exceed Five Million Dollars ($5,000,000) ("Bonds") for the purposes of procuring funds to apply to the costs of the project specified in Exhibit A (the "Project"); and

WHEREAS, IC 36-3-6-9(c) provides that the City-County Council may review the issuance of bonds by IPTC, but that approval of the City-County Council is not required for the issuance of bonds by IPTC; and

WHEREAS, IC 5-1.4 provides that a "qualified entity", which term includes IPTC, may issue and sell its bonds or notes to The Indianapolis Local Public Improvement Bond Bank (the "Bond Bank"); and

WHEREAS, the Executive Director of the Bond Bank has expressed a willingness to purchase the Bonds in a negotiated sale subject to approval by the Board of Directors of the Bond Bank; and

WHEREAS, pursuant to Sec. 126-402 of the Revised Code of the Consolidated City of Indianapolis and Marion County ("Code"), the City-County Council has determined that the issuance of the Bonds should be reviewed; and

WHEREAS, pursuant to the Code, the Municipal Corporations Committee caused to be published a notice of a public hearing before the Committee to consider the testimony of IPTC with respect to the issuance of the Bonds, and such a hearing was held; and

WHEREAS, the Municipal Corporations Committee, after considering all the evidence presented, has recommended that the City-County Council express its non-binding approval of the issuance of the Bonds; now, therefore:

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

SECTION I. The City-County Council does hereby express its non-binding approval of the issuance of general obligation bonds of IPTC, to be issued in an aggregate principal amount not to exceed Five Million Dollars ($5,000,000) to apply on the costs of the Project, and hereby approves the sale of the Bonds to the Bond Bank.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 10, 2002. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 10, 2002 on January 16, 2002. The proposal approves a transfer of $135,280 in the 2002 Budgets of the County Auditor and the Marion County Justice Agency (Drug Free Community Fund) to appropriate salaries per grant awards for Marion County Superior Court, County Prosecutor, and Marion County Justice Agency. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Dowden moved, seconded by Councillor Schneider, for adoption. Proposal No. 10, 2002 was adopted on the following roll call vote; viz:

26 YEAS: Bainbridge, Black, Borst, Boyd, Bradford, Brents, Cockrum, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Horseman, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Nytes, Sanders, Schneider, SerVaas, Short, Soards, Tilford
0 NAYS:
3 NOT VOTING: Gray, Smith, Talley

Proposal No. 10, 2002 was retitled FISCAL ORDINANCE NO. 7, 2002, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 7, 2002

A FISCAL ORDINANCE amending the City-County Annual Budget for 2002 (City-County Fiscal Ordinance No.97, 2001) transferring and appropriating an additional One Hundred Thirty-five Thousand Two Hundred Eighty Dollars ($135,280) in the Drug Free Community Fund for purposes of the County Auditor and the Marion County Justice Agency and reducing certain other appropriations from that agency.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1(i) of the City-County Annual Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the County Auditor and the Marion County Justice Agency to appropriate salary dollars per grant awards for the Marion County Superior Court, Prosecutor's Office, and the Marion County Justice Agency.

SECTION 2. The sum of One Hundred Thirty-five Thousand Two Hundred Eighty Dollars ($135,280) be, and the same is hereby, transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

COUNTY AUDITOR	DRUG FREE COMMUNITY FUND
1. Personal Services-fringes	23,000
MARION COUNTY JUSTICE AGENCY	
1. Personal Services	112,280
TOTAL INCREASE	135,280

SECTION 4. The said increased appropriation is funded by the following reductions:

MARION COUNTY JUSTICE AGENCY	DRUG FREE COMMUNITY FUND
3. Other Services and Charges	135,280
TOTAL DECREASE	135,280

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 702, 2001. Councillor Coughenour reported that the Public Works Committee heard Proposal No. 702, 2001 on January 17, 2002. The proposal, sponsored by Councillors

SerVaas, Coughenour, Langsford, and Nytes, authorizes a change in parking restrictions for Monument Circle and the Monument Circle spokes. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Coughenour made the following motion:

> Mr. President:
>
> I move to recommend to the Council that Proposal No. 702, 2001, be amended by deleting the text of the proposal in its entirety and substituting therefore the attached amended version.

Councillor Langsford seconded the motion.

Councillor Boyd asked if there has been any Committee action on this substitute version of the proposal. Councillor Coughenour said that the amended version simply changes the time period allowable for parking from one hour to two hours.

The motion to amend Proposal No. 702, 2001 as per Councillor Coughenour's motion carried by a unanimous voice vote.

Councillor Borst asked if citizens can park as normal on Saturdays and Sundays. Councillor Coughenour said that this proposal allows parking up to two hours every day of the week between 6:00 a.m. and 9:00 p.m.

Councillor Horseman asked if these new hours still address the former problems of loitering. Councillor Coughenour said that this proposal makes all parking equal and less confusing, and she believes the 6:00 a.m. to 9:00 p.m. time frame will continue to address the loitering issues faced in the past. She stated that the majority of loitering issues were due to young people cruising the circle after 9:00 p.m. on weekend evenings.

Councillor Coughenour moved, seconded by Councillor Langsford, for adoption. Proposal No. 702, 2001, as amended, was adopted on the following roll call vote; viz:

> *25 YEAS: Bainbridge, Borst, Bradford, Brents, Cockrum, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Gray, Horseman, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Nytes, Sanders, Schneider, SerVaas, Short, Soards, Tilford*
> *2 NAYS: Black, Boyd*
> *2 NOT VOTING: Smith, Talley*

Proposal No. 702, 2001, as amended, was retitled GENERAL ORDINANCE NO. 4, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 4, 2002

PROPOSAL FOR A GENERAL ORDINANCE to amend the "Revised Code of the Consolidated City and County" regarding parking restrictions for Monument Circle and the Monument Circle spokes.

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

SECTION 1. Sec. 621-126 of the "Revised Code of the Consolidated City and County," regarding parking time restricted on designated days, hereby is amended by the deletion of the following, to wit:

ON ANY DAY EXCEPT SATURDAYS,
SUNDAYS AND HOLIDAYS
THIRTY MINUTES
from 1:00 a.m. to 6:00 p.m.

Monument Circle on the outer curb

SECTION 2. Sec. 621-126 of the "Revised Code of the Consolidated City and County," regarding parking time restricted on designated days, hereby is amended by the addition of the following, to wit:

ON ANY DAY
TWO HOURS
from 6:00 a.m. to 9:00 p.m.

Monument Circle, Northwest Quadrant, on the outer curb, from Market Street to a point 215 feet north of Market Street

Monument Circle, Northwest Quadrant, on the outer curb, from a point 290 feet north of Market Street to Meridian Street

Monument Circle, Southeast Quadrant, on the outer curb, from Meridian Street to a point 168 feet east of Meridian Street

Monument Circle, Southeast Quadrant, on the outer curb, from a point 202 feet east of Meridian Street to Market Street

Monument Circle, Southwest Quadrant, on the outer curb, from Meridian Street to Market Street

SECTION 3. Sec. 621-202 of the "Revised Code of the Consolidated City and County," regarding parking meter zones designated, hereby is amended by the deletion of the following, to wit:

ONE HOUR

Market Street, both sides, from Illinois Street to Monument Circle

Market Street, both sides, from Monument Circle to Pennsylvania Street

Meridian Street, both sides, from Monument circle to Ohio Street

Meridian Street, both sides, from Washington Street to Monument Circle

SECTION 4. Sec. 621-125 of the "Revised Code of the Consolidated City and County," regarding stopping, standing and parking prohibited at designated locations on certain days and hours, hereby is amended by the addition of the following, to wit:

ON ANY DAY
from 9:00 p.m. to 6:00 a.m.

Market Street, on the north side, from Illinois Street to Monument Circle

Market Street, on the north side, from Monument Circle to a point 138 feet east of Monument Circle

Market Street, on the south side, from Illinois Street to a point 31 feet east of Illinois Street

Market Street, on the south side, from a point 73 feet east of Illinois Street to Monument Circle

Market Street, on the south side, from Monument Circle to Pennsylvania Street

Meridian Street, on both sides, from Monument Circle to Ohio Street

Meridian Street, on the east side, from Washington Street to a point 189 feet north of Washington Street

Meridian Street, on the west side, from a point 145 feet north of Washington Street to Monument Circle

Monument Circle, Northwest Quadrant, on the outer curb, from Market Street to a point 215 feet north of Market Street

Monument Circle, Northwest Quadrant, on the outer curb, from a point 290 feet north of Market Street to Meridian Street

Monument Circle, Southeast Quadrant, on the outer curb, from Meridian Street to a point 168 feet east of Meridian Street

Monument Circle, Southeast Quadrant, on the outer curb, from a point 202 feet east of Meridian Street to Market Street

Monument Circle, Southwest Quadrant, on the outer curb, from Meridian Street to Market Street

SECTION 5. Sec. 621-202 of the "Revised Code of the Consolidated City and County", regarding parking meter zones designated, hereby is amended by the addition of the following, to wit:

TWO HOURS

Market Street, on the north side, from Illinois Street to Monument Circle

Market Street, on the north side, from Monument Circle to a point 138 feet east of Monument Circle

Market Street, on the south side, from a point 73 feet east of Illinois Street to Monument Circle

Market Street, on the south side, from Monument Circle to Pennsylvania Street

Meridian Street, both sides, from Monument Circle to Ohio Street

Meridian Street, on the east side, from Washington Street to a point 189 feet north of Washington Street

Meridian Street, on the west side, from a point 145 feet north of Washington Street to Monument Circle

Monument Circle, Northwest Quadrant, on the outer curb, from Market Street to a point 215 feet north of Market Street

Monument Circle, Northwest Quadrant, on the outer curb, from a point 290 feet north of Market Street to Meridian Street

Monument Circle, Southeast Quadrant, on the outer curb, from Meridian Street to a point 168 feet east of Meridian Street

Monument Circle, Southeast Quadrant, on the outer curb, from a point 202 feet east of Meridian Street to Market Street

Monument Circle, Southwest Quadrant, on the outer curb, from Meridian Street to Market Street

SECTION 6. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

Councillor Coughenour reported that the Public Works Committee heard Proposal Nos. 703 and 704, 2001 and Proposal Nos. 19-31, 2002 on January 17, 2002. She asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 703, 2001. The proposal, sponsored by Councillor Massie, authorizes a weight limit restriction for East Street between Troy Avenue and Southern Avenue (District 20). PROPOSAL NO. 704, 2001. The proposal, sponsored by Councillors Brents and Short, authorizes parking restrictions on the west side of East Street from South Street to Interstate 70 (Districts 16, 21). PROPOSAL NO. 19, 2002. The proposal, sponsored by Councillors Black and Nytes, authorizes a multi-way stop at 42nd Street and Park Avenue (Districts 6, 22). PROPOSAL NO. 20, 2002. The proposal, sponsored by Councillor Moriarty Adams, authorizes

a multi-way stop at 9th Street and Denny Street (District 15). PROPOSAL NO. 21, 2002. The proposal, sponsored by Councillor Knox, authorizes a multi-way stop at 12th Street and Livingston Avenue (District 17). PROPOSAL NO. 22, 2002. The proposal, sponsored by Councillor Soards, authorizes a multi-way stop at 88th Street and Cooper Road (District 1). PROPOSAL NO. 23, 2002. The proposal, sponsored by Councillor Massie, authorizes a multi-way stop at Brunswick Avenue and Laurel Street (District 20). PROPOSAL NO. 24, 2002. The proposal, sponsored by Councillor Dowden, authorizes intersection controls at Ravine Road and White Oak Court (District 4). PROPOSAL NO. 25, 2002. The proposal, sponsored by Councillor Brents, authorizes a multi-way stop at Sheffield Avenue and St. Clair Street (District 16). PROPOSAL NO. 26, 2002. The proposal, sponsored by Councillor Brents, authorizes a multi-way stop at 20th Street and Medford Avenue (District 16). PROPOSAL NO. 27, 2002. The proposal, sponsored by Councillor Brents, authorizes parking restrictions on the south side of New York Street from Pierson Street to Meridian Street (District 16). PROPOSAL NO. 28, 2002. The proposal, sponsored by Councillor Nytes, authorizes parking restrictions on the south side of 25th Street between Dr. A. J. Brown Avenue and Sheldon Street (District 22). PROPOSAL NO. 29, 2002. The proposal, sponsored by Councillor Borst, authorizes parking restrictions on the east side of Talbott Street between Terrace Avenue and Orange Street (District 25). PROPOSAL NO. 30, 2002. The proposal, sponsored by Councillor Soards, authorizes parking restrictions on Georgetown Road and 71st Street (District 1). PROPOSAL NO. 31, 2002. The proposal, sponsored by Councillor Knox, authorizes a weight limit restriction on Maywood Road from Tibbs Avenue to Warman Avenue (District 17). By 6-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Coughenour moved, seconded by Councillor Soards, for adoption. Proposal Nos. 703 and 704, 2001 and Proposal Nos. 19-31, 2002 were adopted on the following roll call vote; viz:

27 YEAS: Bainbridge, Black, Borst, Boyd, Bradford, Brents, Cockrum, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Gray, Horseman, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Nytes, Sanders, Schneider, SerVaas, Short, Soards, Tilford
0 NAYS:
2 NOT VOTING: Smith, Talley

Proposal No. 703, 2001 was retitled GENERAL ORDINANCE NO. 5, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 5, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-364, Trucks on certain streets restricted.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-364, Trucks on certain streets restricted, be and the same is hereby amended by the addition of the following, to wit:

11,000 POUNDS GROSS WEIGHT

East Street, from Troy Avenue to Southern Avenue

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 704, 2001 was retitled GENERAL ORDINANCE NO. 6, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 6, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-121, Parking prohibited at all times on certain streets.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-121, Parking prohibited at all times on certain streets, be and the same is hereby amended by the addition of the following, to wit:

East Street, on the west side, from South Street to I-70

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 19, 2002 was retitled GENERAL ORDINANCE NO. 7, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 7, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
18	Park Av 42nd St	42nd St	Stop
18	Ruckle St 42nd St	None	All Way Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
18	Park Av 42nd St	None	All Way Stop
18	Ruckle St 42nd St	42nd St	Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 20, 2002 was retitled GENERAL ORDINANCE NO. 8, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 8, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
26	9th St Denny St	Denny St	Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
26	9th St Denny St	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 21, 2002 was retitled GENERAL ORDINANCE NO. 9, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 9, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
23	12th St Livingston Av	Livingston Av	Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
23	12th St Livingston Av	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 22, 2002 was retitled GENERAL ORDINANCE NO. 10, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 10, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
1	88th St Cooper Rd	88th St	Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
1	88th St Cooper Rd	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 23, 2002 was retitled GENERAL ORDINANCE NO. 11, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 11, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
39	Brunswick Av Laurel St	Laurel St	Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
39	Brunswick Av Laurel St	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 24, 2002 was retitled GENERAL ORDINANCE NO. 12, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 12, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
12	Ravine Rd White Oak Ct	White Oak Ct	Yield

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 25, 2002 was retitled GENERAL ORDINANCE NO. 13, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 13, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
24	Sheffield Av St. Clair St	Sheffield Av	Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
24	Sheffield Av St. Clair St	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 26, 2002 was retitled GENERAL ORDINANCE NO. 14, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 14, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
24	20th St Medford Av	Medford Av	Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

BASE MAP	INTERSECTION	PREFERENTIAL	TYPE OF CONTROL
24	20th St Medford Av	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 27, 2002 was retitled GENERAL ORDINANCE NO. 15, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 15, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets, be and the same is hereby amended by the addition of the following, to wit:

New York Street, on the south side, from Pierson Street to Meridian Street

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 28, 2002 was retitled GENERAL ORDINANCE NO. 16, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 16, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets, be and the same is hereby amended by the addition of the following, to wit:

Twenty-fifth Street, on the south side, from Dr. A. J. Brown Avenue to a point
30 feet east of Arsenal Avenue

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 29, 2002 was retitled GENERAL ORDINANCE NO. 17, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 17, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-121, Parking prohibited at all times on certain streets.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-121, Parking prohibited at all times on certain streets, be and the same is hereby amended by the addition of the following, to wit:

Talbott Street, on the east side, from Terrace Avenue to Orange Street

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 30, 2002 was retitled GENERAL ORDINANCE NO. 18, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 18, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-121, Parking prohibited at all times on certain streets.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-121, Parking prohibited at all times on certain streets, be and the same is hereby amended by the deletion of the following, to wit:

Georgetown Road, on the east side, from 71st Street to a point 500 feet south of 71st Street

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-121, Parking prohibited at all times on certain streets, be and the same is hereby amended by the addition of the following, to wit:

Georgetown Road, on the both sides, from a point 500 feet south of 71st Street
to a point 800 feet north of 71st Street

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 31, 2002 was retitled GENERAL ORDINANCE NO. 19, 2002, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 19, 2002

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-364, Trucks on certain streets restricted.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-364, Trucks on certain streets restricted, be and the same is hereby amended by the deletion of the following, to wit:

20,000 POUNDS GROSS WEIGHT

Maywood Road, from Gimber Street and Tibbs Avenue to 1,000 feet east of Arnolda Avenue

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-364, Trucks on certain streets restricted, be and the same is hereby amended by the addition of the following, to wit:

10,000 POUNDS GROSS WEIGHT

Maywood Road, from Gimber Street and Tibbs Avenue to Warman Avenue

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL SERVICE DISTRICT COUNCILS
POLICE SPECIAL SERVICE DISTRICT
SPECIAL ORDERS - PUBLIC HEARING

President SerVaas convened the Police Special Service District Council.

PROPOSAL NO. 5, 2002. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 5, 2002 on January 16, 2002. The proposal, sponsored by Councillors Dowden and Moriarty Adams, approves an appropriation of $2,849,006 in the 2002 Budget of the Department of Public Safety, Police Division (Police General Fund) to restore budget cuts made by the State Board of Tax Commissioners because the budget passed by City-County Council in September 2001 exceeded the amount advertised by the City, financed by fund balances. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

President SerVaas called for public testimony at 9:16 p.m. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 5, 2002 was adopted on the following roll call vote; viz:

27 YEAS: Bainbridge, Black, Borst, Boyd, Bradford, Brents, Cockrum, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Gray, Horseman, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Nytes, Sanders, Schneider, SerVaas, Short, Soards, Tilford
0 NAYS:
2 NOT VOTING: Smith, Talley

Proposal No. 5, 2002 was retitled POLICE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2002, and reads as follows:

POLICE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2002

A FISCAL ORDINANCE amending the Police Special Service District Budget for 2002 (Police Special Service District Ordinance No. 3, 2001) appropriating Two Million Eight Hundred Forty-nine Thousand and Six Dollars ($2,849,006) in the Police General Fund for purposes of the Department of Public Safety, Police Division, and reducing the unappropriated and unencumbered balance in the Police General Fund.

BE IT ORDAINED BY THE POLICE SPECIAL SERVICE DISTRICT COUNCIL
OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1 of the Police Special Service District Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Department of Public Safety, Police Division, to restore appropriations cut by the State Board of Tax Commissioners, cuts which were required because the budget passed by City-County Council in September 2001 exceeded the amount advertised by the City.

SECTION 2. The sum of Two Million Eight Hundred Forty-nine Thousand and Six Dollars ($2,849,006) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

DEPARTMENT OF PUBLIC SAFETY

POLICE DIVISON	POLICE GENERAL FUND
4. Capital Outlay	728,957
5. Internal Charges	2,120,049
TOTAL INCREASE	2,849,006

Section 4. The said additional appropriation is funded by the following reductions:

	POLICE GENERAL FUND
Unappropriated and Unencumbered Police General Fund	2,849,006
TOTAL REDUCTION	2,849,006

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

FIRE SPECIAL SERVICE DISTRICT
SPECIAL ORDERS - PUBLIC HEARING

President SerVaas convened the Fire Special Service District Council.

PROPOSAL NO. 6, 2002. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 6, 2002 on January 16, 2002. The proposal, sponsored by Councillors Dowden and Moriarty Adams, approves an appropriation of $2,366,905 in the 2002 Budget of the Department of Public Safety, Fire Division (Fire General Fund) to restore budget cuts made by the State Board of Tax Commissioners because the budget passed by City-County Council in September 2001 exceeded the amount advertised by the City, financed by fund balances. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

President SerVaas called for public testimony at 9:16 p.m. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 6, 2002 was adopted on the following roll call vote; viz:

25 YEAS: Bainbridge, Borst, Boyd, Bradford, Brents, Cockrum, Conley, Coonrod, Coughenour, Douglas, Dowden, Gibson, Gray, Horseman, Knox, Langsford, Massie, McWhirter, Moriarty Adams, Sanders, Schneider, SerVaas, Short, Soards, Tilford
0 NAYS:
4 NOT VOTING: Black, Nytes, Smith, Talley

Proposal No. 6, 2002 was retitled FIRE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2002, and reads as follows:

FIRE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2002

A FISCAL ORDINANCE amending the Fire Special Service District Budget for 2002 (City-County Fire Special Service District Ordinance No. 4, 2001) appropriating Two Million Three Hundred Sixty-six Thousand Nine Hundred Five Dollars ($2,366,905) in the Fire General Fund for purposes of the Department of Public Safety, Fire Division, and reducing the unappropriated and unencumbered balance in the Fire General Fund.

BE IT ORDAINED BY THE FIRE SPECIAL SERVICE DISTRICT COUNCIL
OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1 of the Fire Special Service District Budget for 2002 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Department of Public Safety, Fire Division, to restore appropriations cut by the State Board of Tax Commissioners, cuts which were required because the budget passed by City-County Council in September 2001 exceeded the amount advertised by the City.

SECTION 2. The sum of Two Million Three Hundred Sixty-six Thousand Nine Hundred Five Dollars ($2,366,905) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

DEPARTMENT OF PUBLIC SAFETY FIRE DIVISION	FIRE GENERAL FUND
4. Capital Outlay	2,366,905
TOTAL INCREASE	2,366,905

Section 4. The said additional appropriation is funded by the following reductions:

	FIRE GENERAL FUND
Unappropriated and Unencumbered Fire General Fund	2,366,905
TOTAL REDUCTION	2,366,905

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

President SerVaas reconvened the City-County Council.

NEW BUSINESS

Mr. Elrod read the following announcement:

Mr. President:

This Council will hold a public hearing on Rezoning Petition No. 2001-ZON-085, Council Proposal No. 58, 2002, at its next regular meeting on February 11, 2002, such meeting to convene at 7:00 p.m. in these Council Chambers in the City-County Building in Indianapolis. This petition proposes to rezone 3.339 acres at 4665 West 16th Street from D-7 (FW) (FF) District to C-4 (FW) (FF) to legally establish a motel.

Written objections that are filed with the Clerk of the Council shall be heard at such time, or the hearing may be continued from time to time as found necessary by the Council.

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Boyd stated that he had been asked to offer the following motion for adjournment by:

(1) Councillor Horseman in memory of Stephanie Klapper and William Eugene Harston, Sr.;
(2) Councillor Dowden in memory of Dr. Walter Fischer; and
(3) Councillor Nytes in memory of Lois Bartz.

Councillor Boyd moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Stephanie Klapper, William Eugene Harston, Sr., Dr. Walter Fischer, and Lois Bartz. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 9:20 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 28th day of January, 2002.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

President

ATTEST:

Clerk of the Council

(SEAL)