

**City of Gary**

***Gary Smart Growth Principle Initiative***

**Final Draft**

**City of Gary's Code of Zoning Ordinances Section 163:  
Recommendations and Revisions to Implement Sustainable Development Principles and Practices**

**October 7, 2007**

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SMART GROWTH PRINCIPLES

## **GENERAL PROVISIONS**

### **§ 163.001 \_\_ TITLE.**

This chapter shall be known and may be cited and referred to as the zoning code of the City of Gary, Indiana ("City").

('60 Code, § 6-101) (Ord. 3376, passed)

### **§ 163.002 \_\_ PURPOSE.**

This zoning code is adopted for the following purposes.

- (A) To promote the public health, safety, comfort, morals, convenience, and general public welfare.
  - (B) To protect the character and the stability of the residential, business, and manufacturing areas within the City and to promote the orderly and beneficial development of these areas.
  - (C) To provide adequate light, air, privacy and convenience of access to property, and safety from fire, flood, and other danger.
  - (D) To regulate the intensity of use of land and lot areas and to determine the area of open spaces surrounding buildings necessary to provide adequate light and air and to protect the public health.
  - (E) To lessen or avoid congestion in the public ways.
  - (F) To provide for the needs of residential, business and industrial land use development and future growth that concurrently achieves economic development and jobs, strong neighborhoods and healthy communities consistent with accepted planning and development principles and initiatives.
  - (G) To promote healthy surroundings for family life in residential areas that establishes strong residential neighborhoods with a range of housing options while maintaining and enhancing the values of property and creating a sense of community.
  - (H) Establish and designate zoning district classifications, which may be for agricultural, commercial, industrial, residential, special or unrestricted uses and any subdivision or combination of zoning district classifications which shall each regulate how real property is developed, maintained and used.
  - (I) To fix reasonable standards to which buildings or structures shall conform.
  - (J) To prohibit land uses, buildings, or structures which are incompatible with the character of development or to allow land uses authorized within specified zoning districts.
  - (K) To prevent additions, alterations, or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed by this Ordinance.
  - (L) To protect against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and general welfare.
  - (M) To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each zoning district, by regulating the use and bulk of buildings in relation to the land surrounding them.
  - (N) To conserve the taxable value of land and buildings throughout the City.
  - (O) To provide for the gradual elimination of nonconforming uses of land, buildings, and
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structures which adversely affect the character and value of desirable land use development in each district.

(P) To define and limit the powers and duties of the administrative officers and bodies, as provided in this chapter. ('60 Code, § 6-201) (Ord. 3376, passed)

### § 163.003 \_\_\_ DEFINITIONS.

In those instances whereas a word or term as it applies to development, zoning and/or enforcement of this Ordinance is not defined as presented herein, the Commission shall interpret each word or term in its applicability to the intent of this Ordinance with deference to the following reference materials, but not limited to, as generally accepted by the American Planning Association as providing standard definitions as determined by federal and state government agencies and national organizations involved in planning and land-use development:

1. *The Latest Illustrated Book of Development Definitions - New Expanded Edition* (2004), Harvey S. Moskowitz and Carl G. Lindbloom, ISBN: 0882851772;
2. American Planning Association's *Land Use Law and Zoning Digest*;
3. American Planning Association's *Zoning News*, a monthly publication on current planning and zoning matters;
4. *A Glossary of Zoning, Development and Planning Terms* (1999), American Planning Association's Planning Advisory Service (PAS) Report Number 491/492, ISBN: 1-88482935-X;
5. *The Standard Industrial Classification Manual* (1987), Executive Office of the President, Office of Budget and Management;
6. Urban Land Use Institute publications related to shopping centers, industrial parks, recreational development, and other planned developments.
7. United States Environmental Protection Agency ("USEPA") publications related to sustainable development and smart growth principles.

The definitions contained under this TITLE shall be observed and applied in the interpretation of all titles and sections of this Ordinance, except where the context clearly indicates otherwise. Furthermore, words used in the present tense, singular number, and masculine gender, shall also mean the future, plural, and feminine. Anything not specifically included in a definition presented herein is automatically excluded.

"ACCESS MANAGEMENT." The systematic control of the location, spacing, design and operation of driveways, median openings, interchanges, and street connections to a roadway to minimize conflicts between turning and through vehicles, bicyclists and pedestrians. The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. Public facility measures to support access management include roadway design applications, such as median treatments and auxiliary lanes, and the appropriate spacing of traffic signals. Measures that may be included as conditions of approval for development decisions include but are not limited to: (i) standards such as minimum spacing of driveways and onsite vehicle storage requirements, (ii) mitigations related to site conditions such as right-of-way-out only approach, medians, dedicated turn lanes and shared access approaches, and (iii) provisions for future opportunities for mitigation by land dedication or easement.

"ACCESSORY DWELLING UNIT." A secondary independent dwelling unit constructed on a lot with a primary dwelling unit. The secondary independent dwelling unit is constructed auxiliary to and smaller than the primary dwelling unit.

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"ACCESSORY BUILDING OR USE." One which is subordinate to and serves a principal building or principal use; is subordinate in area, extent, or purpose to the principal building or principal use served; contributes to the comfort, convenience, or necessity of the occupants of the principal building or principal use served; and is located on the same zoning lot as the principal building or principal use served, with the single exception of any accessory off-street parking facilities that are permitted to locate elsewhere than on the same zoning lot with the building or use served.

"ACCESSORY BUILDING OR USE." includes but is not limited to the following:

- (1) A children's playhouse, garden house, or private greenhouse.
- (2) A garage, shed, or building for domestic storage.
- (3) Decks, fences, arbors, gazebos and swimming pools.
- (4) Storage of goods used in or produced by manufacturing activities, unless this storage is excluded by the district regulations.
- (5) The production, processing, cleaning, servicing, altering, testing, repair, or storage of merchandise normally incidental to a retail service or business use conducted by the same ownership as the principal use. In a business district, all these activities shall conform with the performance standards for the MI manufacturing districts in § 163.081, applied at the boundaries of the lot on which the use is located.
- (6) Off-street motor vehicle parking spaces or areas and loading facilities.
- (7) Signs, other than advertising signs, as permitted and regulated in each district incorporated in this chapter.
- (8) Carports.

"ADULT BOOK STORE." An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities," or "Specified Anatomical Areas," or establishment with a segment or section devoted to the sale or display of such material.

"ADULT BUSINESS." Any commercial activity, whether conducted intermittently or full time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by an emphasis on male or female genitals, buttocks, or female breasts.

"ADULT MINI MOTION PICTURE THEATER." An enclosed building with a capacity of 75 persons or less used for presenting 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 therein.

"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 three or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

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"ADULT MOTION PICTURE THEATER." An enclosed building with a capacity of 75 or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein. (Ord. 6246, passed 6-22-88)

"AFFORDABLE, HOUSING." Housing which is priced or valued for purchase, rent, or lease by a certain percentage of the population earning a specified level of income and spending no more than 30 percent of their household income on housing expenses (*for more information or detail, contact the United States Department of Housing and Urban Development*).

"AUTOMOBILE-DEPENDANT." Primary or accessory land uses servicing motor vehicles or patrons in motor vehicles, such as motor vehicle repair centers, fuel (gasoline) stations, car washes, auto and truck sales or any land use with a drive-up window, kiosk, and similar communication instrument or panel.

"ATTACHED DUPLEX." A duplex located on its own lot that shares one or more common or abutting walls between the dwelling units. A common or abutting wall must be shared by at least 50 percent of the length.

"ATTACHED HOME." A dwelling unit located on its own lot which shares one or more common abutting walls between independent dwelling units. The common or abutting wall must be shared by at least 50 percent of the length. An attached house does not share common floor/ceiling with other dwelling units. An "ATTACHED HOME" is similar to townhouses or row houses.

"AUTOMOBILE-ORIENTATED." Development in which the site layout and design gives preference to automobiles and other motorized vehicles as the primary mode of transportation. This type of development usually has more than the minimum required number of parking spaces. The main entrance is typically orientated to the main parking area and between the public right-of-way and the primary building.

"ALLEY." A public right-of-way not more than 30 feet wide which affords only a secondary means of access to abutting property.

"APARTMENT." A room or suite of rooms in a multiple-family structure which is arranged, designed, used, or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

"ARTERIAL STREET." A major street for carrying a large volume of traffic between neighborhoods and intra-community travel, normally controlled by traffic signalization with speed parameters between 30-40 miles per hour.

"AUTOMOBILE LAUNDRY." A building or portion thereof where the principal activity is the washing of automobiles, including the use of chain conveyors and blowers or steam-cleaning devices.

"AUTOMOBILE REPAIR, MAJOR." Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender-straightening or repair; and overall painting of vehicles.

"AUTOMOBILE REPAIR, MINOR." Incidental repairs, replacement of parts and motor service to automobiles, but not including any operation specified under "AUTOMOBILE REPAIR, MAJOR."

"AUTOMOBILE SERVICE STATION." A place where gasoline, stored only in underground tanks, kerosene, lubricating oil, or grease for operation of automobiles, are offered for sale directly to the

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public on the premises, including minor accessories and services for automobiles but not including major automobile repairs, and including washing of automobiles where no chain conveyor, blower, or steam-cleaning device is employed. When the dispensing, sale, or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage. (Ord. 3376, passed)

"AUTOMOBILE WRECKING YARD." Any land, building, or structure used for the open storage, keeping, or abandonment of any worn out, cast off, inoperative, discarded, or abandoned vehicle, automobile, or parts thereof, which is not being restored to operation; or vehicles or automobiles without a valid current state registration and license plate issued to the vehicle or automobile or to the occupant, owner, purchaser, lessor, lessee, or tenant of the place; or used for wrecking of motor vehicles or parts thereof, including the commercial or salvaging of any other goods or articles. (Ord. 3376, passed; Am. Ord. 3925, passed)

"AWNING." A rooflike cover, temporary in nature, which projects from the wall of a building and overhangs a public way or a required yard.

"BLOCK." A tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines or shore lines of waterways, or corporate boundary lines of the City. (Ord. 3376, passed)

"BUILDING." Any structure designed, built, or intended for the shelter, enclosure, or protection of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land. This includes all other structures of every kind, regardless of similarity to buildings.

- (1) "BUILDING, COMPLETELY ENCLOSED." A building separated on all sides from the adjacent open space or from other buildings or other structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.
  - (2) "BUILDING COVERAGE." On a zoning lot, is the proportion of the total area of the zoning lot occupied by the ground area of all buildings located thereon, with the exception of garage buildings enclosing accessory off-street parking facilities and not exceeding a building height of ten feet; garage buildings may be ignored for purposes of determining building coverage.
  - (3) "BUILDING, DETACHED." A building surrounded by open space on the same zoning lot.
  - (4) "BUILDING HEIGHT." The vertical distance from the curb level, or its equivalent, opposite the center of the front of a building to the highest point of the under side of the ceiling beams in the case of a flat roof; to the top level of a mansard roof; and to the mean level of the under side of the rafters between the eaves and the ridge of a gable, hip, or gambrel roof. Where no curb level has been established, the height of the building may be measured from the mean elevation of the finished lot grade at the front of the building.
  - (5) "BUILDING, PRINCIPAL." A non-accessory building in which a principal use of the lot on which it is located is conducted.
  - (6) "BUILDING, RESIDENTIAL." Building which is arranged, designed, used for residential occupancy by one more families or lodgers and which includes, but is not limited to, the following types.
    - (a) One-family detached dwellings.
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(b) Two-family dwellings.

(c) Multiple-family dwellings.

(d) A row of one- or two-family attached dwellings developed initially under single ownership or control.

"BULK." The term used to indicate the size and setbacks of buildings or structures and their location with respect to one another, and includes the following.

(1) Size and height of buildings.

(2) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings.

(3) Gross floor area of buildings in relation to lot area (floor area ratio).

(4) All open spaces allocated to buildings.

(5) Amount of lot area per dwelling unit. (Ord. 3376, passed)

"BUS TERMINAL; BUS DEPOT; BUS STATION." Any place, building, or portion thereof where inter-city buses make their major or only stop, whether the stop is off-street or on the public way adjacent thereto, for the purpose of loading or unloading passengers, baggage, or freight, and also where minor repairs to buses may be provided. The "BUS TERMINAL," "BUS DEPOT," or "BUS STATION" may serve as a stop for intra-city buses for the purpose of loading or unloading passengers and baggage but shall not be deemed to include the corner-to-corner passenger pick-up and discharge service normally provided by intra-city buses. (Ord. 3786, passed)

"CABARET." A nightclub, theater, or other establishment which is licensed to serve food and/or alcoholic beverages which feature live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on "Sexual Conduct" or "Specified Anatomical Areas." (Ord. 6246, passed 6-22-88)

"CLUB OR LODGE, PRIVATE." A nonprofit association of persons who are bona fide members, electing a board of directors and paying annual dues, which owns, hires, or leases a building or portion thereof, the use of the premises being restricted to members and their guests. It shall be permissible to serve food and meals on the premises provided adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed in conjunction with the operation of a dining room for the purpose of serving food and meals, though these beverages may be served in a separate room or rooms, provided the sale of alcoholic beverages is in compliance with the applicable federal, state, and municipal laws.

"COLLECTOR STREET." A street designed to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways to reach arterial streets.

"COMMERCIAL." Land use involving buying/selling of goods or services as the primary activity.

"COMMON GREEN." A courtyard that provides for pedestrian and bicycle access, but not vehicle access, to abutting property and generally provides a common area for use by residents. A common green may function as a community yard. Hard and soft landscape features may be included in a common green, such as groundcover, trees, shrubs, surfaced paths, patios, benches or gazebos.

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"COTTAGE." A small dwelling unit, generally containing not more than 1,200 but no less than 950 square feet of floor area that may be used as an accessory dwelling unit.

"CURB LEVEL." For any building, is the level of the established curb in front of the building measured at the center of that building measured at the center of the front. Where no curb elevation has been established, the mean elevation of the finished lot grade immediately adjacent to a building shall be considered the "CURB LEVEL."

"DECIBEL." A unit of measurement of the intensity or loudness of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "DECIBELS."

"DEVELOPMENT." All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved (or gravel) areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.

"DRIVE-THROUGH/DRIVE-UP FACILITY." A facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. A DRIVE-THROUGH FACILITY is a type of site development that is usually found in conjunction with a quick automobile orientated servicing uses, retail sales or commercial service use. A DRIVE-"THROUGH/DRIVE-UP FACILITY" also includes facilities designed for the rapid servicing of vehicles, where the driver may or not remain in their vehicles, but where the drivers usually either perform the service for themselves, or wait on the site for the service to be rendered. A "DRIVE-THROUGH FACILITY" may serve the primary use of the site or may serve accessory uses. Examples include, but are not limited to: drive-up windows, automatic teller machines (ATMs); coffee kiosks, and similar vendors; menu boards, order boards, or boxes, gas pump islands, car wash facilities, auto service facilities such as air compressors, water, and windshield washing stations quick lube or quick lube or quick oil change facilities, and drive-in theaters.

"DUPLEX." A building that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.

"DWELLING." A building or portion thereof, but not an automobile house trailer, designed or used exclusively for residential occupancy, including one-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels or lodging houses.

- (1) "DWELLING, ATTACHED." One which is joined to another dwelling at one or more sides by a party wall or walls.
  - (2) "DWELLING, DETACHED." One which is entirely surrounded by open space on the same lot.
  - (3) "DWELLING, MULTIPLE- FAMILY." A building or portion thereof containing three or more dwelling units.
  - (4) "DWELLING, ONE-FAMILY." A building designed or used exclusively for occupancy by one family, and includes one-family detached dwellings and row houses.
  - (5) "DWELLING, ROW." Any one of three or more one-family attached dwellings in a continuous row or rows.
  - (6) "DWELLING, TWO-FAMILY." A building designed or used exclusively for occupancy by two families.
  - (7) "DWELLING UNIT." Consists of one or more rooms which are arranged, designed,
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used, or intended for use as living quarters for one family. Individual bathrooms are not necessarily provided, but complete kitchen facilities, permanently installed, shall always be included for each "DWELLING UNIT."

- (8) "DWELLING UNIT, EFFICIENCY." A dwelling unit consisting of one room exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room, provided the dining alcove does not exceed 100 square feet in area.

"ECOLOGICALLY/SCIENTIFICALLY SIGNIFICANT NATURAL AREAS." Land and water that has substantially retained its natural character, but is not necessarily completely natural or undisturbed, and which is significant for historical, scientific, paleontological, archeological or natural features.

"ESTABLISHMENT, BUSINESS." A separate place of business having the following three characteristics.

- (1) The ownership and management of all operations conducted within the establishment is separate and distinct from the ownership and management of operations conducted within other establishments on the same or adjacent zoning lots.
- (2) Direct public access to the "BUSINESS ESTABLISHMENT" is separate and distinct from direct access to any other "BUSINESS ESTABLISHMENT."
- (3) There is no direct public access from within the establishment to any other establishment.

When adjacent places of business lack any one of the aforesaid characteristics with respect to one another, they shall then be considered as a single "BUSINESS ESTABLISHMENT" for the purposes of this chapter.

"EXTERIOR IMPROVEMENT, ACCESSORY." Any improvement except buildings or other roofed structures on a lot, which includes: surface parking and loading areas; paved and graveled areas; areas devoted to exterior display, storage, or similar activities; and improved open areas such as plazas and walkways, but does not include vegetative landscaping, natural geologic forms, or unimproved land.

"FAMILY." Consists of one or more persons related by blood, marriage, or adoption or a group of not more than five persons who need not be related by blood, marriage, or adoption (excluding servants), who are living together in a single dwelling unit and maintaining a common household conforming with all city and state health and housing codes.

"FISH AND WILDLIFE HABITAT AREAS." Lands that contain significant food, water, or cover for native terrestrial and aquatic species of animals (examples include, but are not limited to, forests, fields, riparian areas, wetlands and water bodies).

"FLOODPLAIN." A floodplain is land subject to inundation by the maximum flood of reasonable regional expectancy as determined by the State Flood Control and Water Resources Commission.

"FLOOR AREA FOR DETERMINING FLOOR AREA RATIO." For the purpose of determining the floor area ratio, the "FLOOR AREA" of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of

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the exterior walls or from the center line of walls separating two buildings. The "FLOOR AREA" of a building shall include basement floor area when more than 1/2 of the basement height is above the established curb level or above the finished lot grade level where curb level has not been established; elevator shafts and stairwells at each floor; floor space used for mechanical equipment, open or enclosed, located on the roof or penthouses; attic space having headroom of seven feet, ten inches or more; interior balconies, mezzanines, and enclosed porches; and floor area devoted to accessory uses. However, any space devoted to off-street parking or loading shall not be included in "FLOOR AREA."

"FLOOR AREA FOR DETERMINING OFF-STREET PARKING AND LOADING REQUIREMENTS." When prescribed as the basis of measurement for off-street parking spaces and loading berths for any use, "FLOOR AREA" shall mean the sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to that use, including accessory storage areas located within selling or working space, such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production of processing of goods, or to business or professional offices.

However, "FLOOR AREA" for purpose of measurement for off-street parking spaces shall not include "FLOOR AREA" devoted primarily to storage purposes, except as otherwise noted herein; "FLOOR AREA" devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or basement "FLOOR AREA" other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

"FLOOR AREA RATIO (F.A.R.)." The "FLOOR AREA RATIO" of the building or buildings on any zoning lot is the floor area of the building or buildings on that zoning lot divided by the area of the zoning lot, or in the case of planned developments, by the net site area.

"FREQUENCY." The number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound. (Ord. 3376, passed)

"GROUP LIVING STRUCTURE." A residential dwelling that receives 50 percent or more of its short- or long-term residents under a contract or other agreement with a state or local government human services agency to provide basic living arrangements and possibly treatment specific to its residents, including facilities that are further defined herein:

- RESIDENTIAL FACILITY/GROUP CARE FACILITY;
- RESIDENTIAL HOME/GROUP CARE HOME;
- RESIDENTIAL HOME/GROUP HOME PRIVATE SECURE CARE INSTITUTION

"HAZARDOUS SUBSTANCE." Any substance, material or waste listed below:

- Nuclear or radioactive materials or waste;
  - Chemicals subject to reporting under TITLE III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, published July 1987, U.S. Environmental Protection Agency; and
  - Hazardous Materials Table, in the Code of Federal Regulations (CFR), Title 49, Part 172.101.
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"HEALTH CENTER, GOVERNMENT OPERATED." A government supported and operated institution where physicians and other medical professionals provide out-patient health service to the public, and where additional facilities and services, including but not limited to laboratories, diagnostic testing, analytical and clinical research, and administrative offices may be located, the additional facilities and services being operated as an integral part of the institution and related directly to the out-patient health services provided. (Ord. 3764, passed)

"HOME OCCUPATION." A gainful occupation or profession customarily carried on by an occupant of a dwelling unit as a use which is clearly incidental to the use of the dwelling unit for residential purposes, and therefore not involving the conduct of a retail business, manufacturing business, or a repair shop of any kind on the premises. "HOME OCCUPATION" shall not include the employment of any additional persons in the performance of these services, nor shall there be any mechanical or electrical equipment used, other than is usual for purely domestic or hobby purposes. There shall be no exterior display or sign, except as allowed in the sign regulations for the districts in which the "HOME OCCUPATIONS" may be located; and there shall be no exterior storage of equipment or materials used in connection with the "HOME OCCUPATION."

(1) "HOME OCCUPATION" includes but is not limited to the following: art studio, custom dressmaking, professional office of a clergyman, lawyer, physician, dentist, architect, engineer, realtor, accountant, teaching of music, dancing, and other instruction when limited to one pupil at a time and when located in a dwelling unit occupied by the same.

(2) "HOME OCCUPATIONS," however shall not be construed to include such uses as the following: medical clinic or hospital, beauty parlor or barber shop, tea room or restaurant, gift shop or millinery shop, machine shop or automobile repair shop, tourist homes, or commercial stable or kennel, unless hereafter provided as a specifically recognized exception. (Ord. 3376, passed; Am. Ord. 4059, passed)

"HOSPITAL." An institution where physicians and other medical professionals provide health services primarily for in-patient nursing, and medical or surgical care and treatment of persons suffering from injuries or from physical or mental ailments, and where additional facilities and services, including but not limited to laboratories, diagnostic testing, analytical and clinical research, out-patient departments, training facilities, and administrative and staff offices and living quarters may be located, these additional facilities and services being operated as an integral part of the institution and related directly to the health services provided. The term "HOSPITAL" shall include the terms sanitarium and institution for the care of the insane or feeble-minded, except in determining the applicable off-street parking and loading requirements specified in this chapter. (Ord. 3376, passed; Am. Ord. 3764, passed)

"HOTEL, APARTMENT." A hotel which contains dwelling units or dwelling units and lodging rooms, and in which at least 50% of the gross floor area devoted to residential use shall be allocated to the dwelling units.

"HOTEL." A building in which lodging is provided along with other ancillary services (kitchen facilities, sitting rooms, bedrooms, suites, restaurants, meeting rooms, entertainments, and recreational facilities) and offered to the general public for

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compensation, and which is open to transient guests intended for short-term stays and is not a rooming or boarding house.

(Ord. 3376, passed)

"HUMAN-SCALE DESIGN/DEVELOPMENT." Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (for example: as is typical of downtowns and main street developments); larger buildings that have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, sidewalk furniture, lighting, weather protection (awnings or canopies), and similar features. These features are all generally small in scale than those that are primarily intended to accommodate automobile traffic.

"IMPERVIOUS SURFACE." Surface area that does not allow water infiltration, or has a runoff coefficient of 0.90 or more (for example: non-permeable pavement, solid rock, roofs, foundations, underground tanks and vaults, and similar areas).

"INFILL." The development of vacant land located in an area that is mainly developed.

"JUNK YARD." An open area where waste or scrap metals or materials are kept, discarded, abandoned, bought, sold, exchanged, sorted, baled, packed, disassembled, or handled, for disposition. A "JUNK YARD" includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. May also be referred to as a salvage yard (Ord. 3376, passed; Am. Ord. 3926, passed)

"KENNEL." Any lot or premises or portion thereof on which more than four dogs, cats, and other household domestic animals over four months of age are kept, or on which more than two such animals are boarded for compensation or kept for sale.

"LANDSCAPING." Any combination of living plants such as trees, shrubs, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas works of art, reflective pools, fountains or the like. Also includes irrigation systems, mulches, topsoil and re-vegetation or the preservation.

"LIFESTYLE CENTER." A shopping center designed as a mixed-use retail and commercial service development that combines the traditional retail and commercial functions of a shopping mall but with leisure and pedestrian amenities generally oriented towards consumers with a higher than average percentage of disposable income, sometimes labeled "boutique malls".

"LODGING HOUSE." A dwelling containing one or more lodging rooms and in which lodging or meals are provided for compensation on a weekly or monthly basis to one or more persons who are not of the keeper's family.

"LODGING ROOM." A room rented as sleeping and living quarters, without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking

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facilities, each room which provides sleeping accommodations shall be counted as one "LODGING ROOM" for the purposes of this chapter.

"LOT." A zoning lot except as the content shall indicate a lot of record, in which case a "LOT" is a lot of record. Includes plot, price, and parcel of land.

(1) "LOT, AREA." The area of a horizontal plane bounded by the front, side, and rear lot lines.

(2) "LOT, CORNER." A lot situated at the intersection of two streets, the interior angle of the intersection not exceeding 135 degrees.

(3) "LOT DEPTH." The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

(4) "LOT LINE, FRONT." That boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public way. The owner of a corner lot may select either street lot line as the front lot line.

(5) "LOT LINE, REAR." That boundary of a lot which is most distant from, or is most nearly parallel to the front lot line.

(6) "LOT OF RECORD." An area of land designated as a lot on a plat of subdivision recorded or registered pursuant to statute with the recorder of Lake County.

(7) "LOT, REVERSED CORNER." A corner lot of which the side lot line adjoining the street is substantially a continuation of the front lot line of the first lot to its rear.

(8) "LOT LINE, SIDE." Any boundary of a lot which is not a front lot line or rear lot line.

(9) "LOT, THROUGH." A lot other than a corner lot having a pair of opposite lot lines along two more or less parallel public streets. Both street lines shall be considered as front lot lines.

(10) "LOT WIDTH." The mean horizontal distance between the side lot lines of a lot measured within the lot boundaries.

(11) "LOT, ZONING." A single tract of land located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. Therefore, a "ZONING LOT" may or may not coincide with a lot of record.

"MANUFACTURED HOME." A manufactured home is a type of dwelling unit that is largely assembled in a factory and then transported to a site, constructed in accordance with federal manufactured housing construction and safety standards (United States Department of Housing and Urban Development code) in effect after June 15, 1976.

"MARQUEE OR CANOPY." A roof like structure of a permanent nature which projects from the wall of a building and overhangs the public way, and is designed and intended to protect pedestrians from adverse weather conditions. (Ord. 3376, passed)

"MASSAGE PARLOR." Any place where for any form of consideration of gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with "Sexual Conduct," or

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where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas." (Ord. 6246, passed 6-22-88)

"MEDICAL" or "DENTAL CLINIC." A facility operated by two or more physicians and other employees, and providing health services for the out-patient treatment of persons suffering from injuries or from physical or mental ailments. The term "MEDICAL" or "DENTAL CLINIC" shall include the term group medical center.

"MEDICAL" or "DENTAL OFFICE." A facility operated by one physician and not more than two other employees, and providing health services for the out-patient treatment of persons suffering from injuries or from physical or mental ailments. (Ord. 3764, passed)

"MITIGATION." To avoid through negotiation or to rectify, repair or compensate for negative impacts that result from the actions of others deemed liable or responsible (for example, improvements to a street may be required to mitigate for transportation impacts resulting from the development).

"MIXED-USE DEVELOPMENT." The combination of more than one type of land use in a single building or a single development of more than one building and land use, meaning some combination of residential, commercial, industrial, office, institutional, or other land uses are in close proximity planned as a unified complementary whole and functionally integrated to the use of shared vehicular and pedestrian access including shared-parking areas.

"MOBILE HOME." A type of dwelling unit built in a factory, rather than on site, and then taken to the place where they will be occupied. They are usually transported by tractor-trailers over public highways and are often associated with rural areas and high-density developments, sometimes referred to as "trailer parks" or "mobile home parks." Mobile homes are usually placed in one location, often a rented lot within a trailer park or mobile home park, and left there permanently. However, they do retain the ability to be moved, as this is a requirement in many areas. Behind the cosmetic work fitted at installation to hide the base, there are strong trailer frames, axles, wheels and tow-hitches. Reference "RESIDENTIAL TRAILER."

"MOTOR FREIGHT TERMINAL." A building in which freight brought by motor truck is assembled and sorted for routing in intrastate and interstate shipment.

"MOTOR VEHICLE REPAIR, MAJOR." Includes engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening; or repair and overall painting of vehicles.

"MOTOR VEHICLE REPAIR, MINOR." Includes incidental repairs, replacement of parts and motor service to motor vehicles, but does not include any operation specified under major motor vehicle repairs.

"MULTI-DWELLING DEVELOPMENT." A grouping of individual structures where each structure contains 2 or more dwelling units. The land on which the structures are constructed is not subdivided into separate lots but rather under one real property key number for tax purposes and single ownership. There is no requirement for the structures on the sites to be attached.

"NAMEPLATE." A sign indicating the name or address of a building or the name of an occupant thereof, and the practice of a permitted occupation therein.

"NEIGHBORHOOD." A residential area usually having a distinguished character or geography with a corresponding name for said area.

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"NET SITE AREA." The entire land area within the boundaries of a site, less one half the area of any vacated streets or alleys.

"NEW DEVELOPMENT." Development on a site which is absent of prior real property or accessory exterior improvements, that may include redevelopment of a site previously improved or that has had existing buildings demolished or razed to accommodate development, and therefore not a remodel or reuse of a building or structure.

"NONCONFORMING BUILDING OR STRUCTURE." Any building or structure which does not comply with all of the regulations of this chapter or any amendment governing bulk for the zoning district in which the building or structure is located; or is designed or intended for a nonconforming use.

"NONCONFORMING USE." Any use of land, buildings, or structures which does not comply with all the regulations of this chapter or any amendment governing use for the zoning district in which the use is located.

"NOXIOUS MATTER." Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

"OCTAVE BAND." A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

"OCTAVE BAND FILTER." An electrical frequency analyzer designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.

"OFF-STREET PARKING." All off-street areas designated, used, required or intended to be used for the parking of motor vehicles.

"ON-STREET PARKING." Parking in the street right-of-way, typically in parking lanes or bays. Parking may be "parallel" or "angled" in relation to the edge of the right-of-way or curb and in accordance with parking standards and requirements.

"OPEN SPACE." Land within a public, common, private, active or passive development that has been dedicated in common ownership within a development or to the public specifically for the purpose of providing places for recreation, conservation or other open space land use.

"ORIENTATION." To cause to face toward a particular point of reference (for example, "A building is orientated to the street").

"OUTDOOR COMMERCIAL USE." A use supporting a commercial activity that provides goods or services, either wholesale or retail, where the amount of site area used for outdoor storage of materials for display of merchandise exceeds the floor area of all buildings on the site. Examples of outdoor commercial uses include, but are not limited to: automobile sales or service, nurseries, home improvement centers, lumber yards, or equipment rental businesses.

"OVERLAY ZONE/DISTRICT." Overlay zones impose stricter standards and/or requirements than the underlying land use zone or district. Such a zone or district exhibits unique characteristics of land or neighborhood or the types of development existing or planned that require special regulations or standards unique to the area.

"PARKING FACILITY." Any facility or combination of facilities for motor vehicle parking which contains six or more parking spaces.

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"PEDESTRIAN AMENITIES." Areas and objects that serve as places for public socialization and enjoyment and are usually closed to motorized vehicles (examples include: plazas; building frontage areas – extra wide sidewalks; street furnishings – benches, drinking fountains, bus waiting shelters; and pocket parks adjacent to a street; and similar areas and objects (sidewalks designed to meet the minimum sidewalk width standards for the City are not "amenities" for the purposes of this Ordinance.

"PEDESTRIAN-ORIENTED DEVELOPMENT." Development that is designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than on auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades which face the street. Typically, buildings cover a large portion of the site. Although parking areas may be provided, they are generally limited in size and they are not emphasized by the design of the site.

"PERFORMANCE STANDARD." A criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire, explosive hazards, and glare or heat generated by or inherent in uses of land or buildings.

"PHYSICALLY HANDICAPPED PERSON." A person who has been issued a special registration plate for a motor vehicle by the State Bureau of Motor Vehicles.

"PLANNED DEVELOPMENT." A tract of land which is developed as a unit under single ownership or control, which includes two or more principal buildings and which is at least four acres in area, except for planned developments operated by a municipal corporation which shall be at least two acres in area, and manufacturing planned developments which shall be at least ten acres in area.

"PLANTER STRIP." A landscape area for street trees and other plantings within the public right-of-way, usually a continuous planter area between the street and a sidewalk.

"PLAZA." An area open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas typically provided with amenities, such as seating, dining and ornamental fountains, art, trees, and landscaping for use by pedestrians.

"RAILROAD RIGHT-OF-WAY." A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, or water towers.

"REDEVELOPMENT." The cooperative public-private process of clearing away existing improvements on a property and replacing them with new development or improvements designed to promote government policy goals.

"RESIDENTIAL FACILITY/GROUP CARE FACILITY." A short-term residence (less than 60 days) for a maximum of ten (10) youths and for staff persons in a building originally constructed as a one- or two-family dwelling. The residence may provide emergency shelter care as certified by the Indiana Department of Child Services ("DCS") as a Group Home under Rule 465 IAC 13.

"RESIDENTIAL HOME/GROUP HOME CARE." A long-term residence (over 60 days) for a maximum of ten (10) youths and for staff persons in a building originally constructed as a one- or two-family dwelling. The residence may provide residential care alone, or in conjunction with training or treatment and must be certified by the Indiana Department of Child Services ("DCS") as a Group Home under Rule 465 IAC 12.

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"RESIDENTIAL HOME/GROUP HOME PRIVATE SECURE CARE INSTITUTION." A long-term residence (over 60 days) that may exceed ten (10) youths but no more than fifteen (15) youths and for staff persons in a structure meeting the I-3 building code . The residence shall provide residential care in conjunction with training or treatment for youths gravely disabled with behaviors capable of being harmful to themselves or others which may require a locked facility. Such a facility must be certified by the Indiana Department of Child Services ("DCS") as a Group Home under Rule 465 IAC 12.

"RESIDENTIAL TRAILER." A mobile home that was not constructed in accordance with federal manufactured housing construction and safety standards (United States Department of Housing and Urban Development), in effect after June 15, 1976.

"RESTAURANT." Any land, building, or part thereof other than a boarding house, where meals are prepared and sold to the public for consumption on the premises, including a cafe, cafeteria, coffee shop, lunch room, drive-in stand, tea room, and dining room. (Ord. 3376, passed)

"REST HOME; NURSING HOME; CONVALESCENT HOME; INSTITUTION FOR THE AGED OR FOR CHILDREN." An institution where children or aged or infirm persons reside, where in-patient nursing care may be provided to persons suffering from physical or mental ailments, where daily out-patient nursing care may be provided, and where administrative and staff offices and living quarters operated as an integral part of the institution may be provided. The term "REST HOME" shall include the term day-care center, and institution where daily out-patient nursing care is provided. (Ord. 3376, passed; Am\_ Ord. 3764, passed)

"RIGHT-OF-WAY." An area that allows for the passage of people or vehicles. Right-of-way includes passageways such as freeways, parking lanes, parkways, pedestrian connections, alleys, streets, and sidewalks. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public will be in a tract of land.

"SENSIBLE GROWTH." The concept of sensible growth has evolved from interest in "smart growth" that began in the 1980s and is the confluence of two compatible but different planning initiatives for sustainable development: (1) the need for sound planning as a basis for decisions about growth, and (2) the application of common sense to many of the growth issues facing communities today.

"SEXUAL CONDUCT." Includes the following:

- (1) The fondling or other touching of human genitals, pubic region, buttocks, or female breasts;
- (2) Ultimate sex acts, normal or perverted, actual or stimulated, including intercourse, oral copulation, sodomy;
- (3) Masturbation; and
- (4) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) through (3) above.(Ord\_ 6246, passed 6-22-88)

"SENIOR HOUSING." Housing designated and/or managed for persons over a specified age, for which age restrictions may apply.

"SHARED PARKING." Required parking facilities for two or more land uses, structures, or lots or

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parcels, which are satisfied jointly with the same facilities.

"SHOPPING STREET." A driveway in a commercial development that is designed to mimic a public street with sidewalks, tree wells, pedestrian lighting, street furnishings or pedestrian amenities. A "SHOPPING STREET" may also have on-street parking.

"SIGN." A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, person, institution, organization, or business. However, a "SIGN" shall not include any display of official court or public office notices, nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "SIGN" shall not include a sign located completely within an enclosed building. Each display surface of a sign shall be considered to be a "SIGN."

(1) "SIGN, ADVERTISING." A sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is located or to which it is affixed.

(2) "SIGN, BUSINESS." An accessory sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where the sign is located or to which it is affixed.

(3) "SIGN, FLASHING." Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when the sign is in use. Any revolving, illuminated signs shall be considered a "FLASHING SIGN."

(4) "SIGN, GROSS SURFACE AREA OF." The entire area within a single continuous perimeter enclosing the extreme limits of the sign and in no case passing through or between any adjacent elements of same. However, the perimeter shall not include any structural or framing elements lying outside the limits of the sign and not forming an integral part of the display.

"SOUND LEVEL METER." An instrument standardized by the American Standards Association for measurement of intensity of sound.

"SPECIFIED ANATOMICAL AREAS." Includes the following:

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

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Ord. 6246, passed 6-22-88)

"STOREFRONT CHARACTER." The character expressed by buildings placed close to the street with ground-floor display windows, weather protection (awnings or canopies), corner building entrances or recessed entrances, and similar features.

"STORY." That portion of a building included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story for the purposes of this chapter when more than 1/2 of the basement height is above the established curb level, or above the finished lot grade level where curb level has not been established.

"STREET." A public right-of-way which affords a primary means of access to abutting property.

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"STREET FURNITURE/FURNISHINGS." Benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, or similar pedestrian amenities; may be located within a street furnishing zone or building from zone of a sidewalk or in a plaza (see also "PEDESTRIAN AMENITY").

"STREET LINE." A line separating a zoning lot or parcel from a street.

"STRUCTURE." Anything constructed or erected which is attached to the ground and shall include signs of all kinds.

"STRUCTURE." Any object constructed in or on the ground. "STRUCTURE" includes buildings, decks, fences, towers, flag poles, signs and other similar objects. "STRUCTURE" does not include paved areas or vegetative materials.

"STRUCTURAL ALTERATION." Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams or girders.

"SUSTAINABLE DEVELOPMENT." Land use development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend without compromising the ability of future generations to meet their own needs.

"TAVERN." A building wherein intoxicating liquors are sold to be consumed on the premises, not including restaurants where the principal business is serving food.

"TOURIST COURT, MOTEL." A group of attached or detached buildings located on a single zoning lot and containing individual sleeping or living units designed for or used by transient automobile tourists.

"TOURIST HOME." A dwelling in which meals or lodgings or both are provided or offered to transient guests for compensation.

"TOXIC AND INFECTIOUS MATERIALS." Those materials, compounds, or mixtures used in the manufacturing process or generated as a product or waste which as discharged and upon exposure, ingestion, or inhalation may be dangerous, hazardous or injurious to any organism or the environment. Those materials identified as toxic in any of the following: (a) the most recent edition of the United States Department of Transportation's Guidebook for Hazardous Material Incidents; (b) any Material Safety Data Sheet ("MSDS") that is available for that material, compound or mixture; (c) the most recent edition of Hawley's Condensed Chemical Dictionary; or (d) the most recent of Sax's Dangerous Properties of Industrial Materials (Ordinance No. 7394, 11/20/2002).

"TRAILER PARK, HOUSE." Any premises on which are parked one or more vehicles designed, intended, arranged or used for living or sleeping purposes, or any premises used or held out for the purpose of supplying to the public a parking space for two or more such vehicles, whether such vehicles stand on wheels or rigid supports.

"TRUCK STOPS, MOTOR FREIGHT TERMINALS, TRUCK FUEL SALES." Any place, building, site, or portion thereof, where trucks, trailer trucks, buses, tankers, and other vehicles, primarily used for freight transport and cartage make their stop for the purpose of loading and unloading freight; dispatching, storage of cargo; and also any place, building, site or portion thereof dispensing gasoline, diesel fuel, kerosene, stored only in underground tanks; lubricating oil or grease for operation of freight vehicles offered for sale directly to the public on the premises including minor accessories and services such as restaurants or lounge, weight scales, showers, convenient stores, and any other ancillary services. (Ord. 6221, passed 12-22-87; Am. Ord. 6236, passed 4-5-88)

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"USE." The "USE" of property is the purpose or activity for which the land or building thereon, is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner or performance of such activity with respect to the performance standards of this ordinance.

"USE, PRINCIPAL." The main use of land or buildings as distinguished from a subordinate or accessory use.

"USED FOR." Shall include the phrases arranged for, designed for, intended for, maintained for, and occupied for.

"VEHICLE AREAS." All of the areas on a site where vehicles may circulate or park including parking areas, driveways, drive-through lanes, and loading areas.

"WASTE COLLECTION AREAS." Areas set aside or designed to be used for garbage collection and collection of materials for recycling. "WASTE COLLECTION AREAS" include areas occupied by dumpsters and other solid waste receptacles.

"WIRELESS COMMUNICATION EQUIPMENT." Cellular towers, antennae, monopoles and related facilities used for telecommunication and radio signal transmission and receiving.

"YARD." An open space on a zoning lot which is unoccupied and unobstructed from ground level or lowest level otherwise specified, to the sky, except as otherwise allowed in § 163.009. A "YARD" extends along a lot line and at right angles to the lot line to a depth or width specified in the yard regulations for the zoning district in which the zoning lot is located.

(1) "YARD, FRONT." A yard extending along the full length of the front lot line between the side lot lines.

(2) "YARD, REAR." A yard extending along the full length of the rear lot line between the side lot lines.

(3) "YARD, SIDE." A yard extending along a side lot line from the front yard, or front lot line when there is no front yard, to the rear yard, or rear lot line when there is no rear yard. ('60 Code, §§ 6-402, 6-403) (Ord. 3376, passed; Am. Ord. 6110, passed 3-18-86)

#### **§ 163.004 \_\_ APPLICATION.**

In interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare. Where the conditions imposed by any provisions of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern. This chapter is not intended to abrogate any easement, covenant, or any other private agreement; however, where the regulations of this chapter are more restrictive or impose higher standards or requirements than the easements, covenants, or other private agreements, the requirements of this chapter shall govern. ('60 Code, § 6-501) (Ord. 3376, passed)

#### **§ 163.005 \_\_ SCOPE.**

Except as may otherwise be provided in §§ 163.120 through 163.128, all buildings erected, all uses of land or buildings established, all structural alteration or relocation of existing buildings, and all enlargements of or additions to existing uses, shall be subject to all regulations of this chapter which

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are applicable to the zoning districts in which the buildings, uses, or land shall be located. However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter, and the construction has begun within one year of the effective date and diligently prosecuted to completion, the building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and, upon completion, may be occupied under a certificate of occupancy by the use for which originally designated, subject to the provisions of §§ 163.120 through 163.128. ('60 Code, § 6-502) (Ord. 3376, passed)

**§ 165.006 \_\_ ZONING OF ANNEXED LAND.**

Prior to the annexation of any territory to the City, a plan for zoning the area to be annexed shall be forwarded to the Common Council by the City Plan Commission. ('60 Code, § 6-503) (Ord. 3376, passed)

**§ 163.007 \_\_ ACCESS TO PUBLIC STREETS.**

Every principal building erected shall be on a zoning lot or parcel of land which adjoins a public street or a permanent easement of access to a public street, the easement to be at least 20 feet wide unless a lesser width was duly established and recorded prior to the effective date of this chapter. ('60 Code, § 6-504) (Ord. 3376, passed) Penalty, see § 163.999

**§ 163.008 \_\_ PRINCIPAL AND ACCESSORY BUILDINGS.**

(A) Except in the case of planned developments, not more than one principal detached residential building shall be located on a zoning lot, nor shall a principal detached residential building be located on the same zoning lot with any other principal building. ('60 Code, § 6-505)

No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory. No accessory building or buildings shall occupy more than 40% of the area of a required rear yard. No accessory building or portion thereof located in a required rear yard shall exceed 15 feet in height. On a reversed corner lot in a residence district and within 15 feet of any adjacent property to the rear in a residence district, no accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than a distance equal to 60% of the least depth which would be required under this chapter for the front yard on the adjacent property to the rear. Further, in the above instance, no accessory building shall be located within 5 feet of any part of a rear lot line which coincides with a side lot line or portion thereof of property in an R1, R1A, R2, R3, or R4 District. ('60 Code, S 6-506) (Ord. 3376, passed) Penalty, see § 163.999

**§ 163.009 \_\_ BULK REGULATIONS.**

(A) The maintenance of yards, courts, plazas, common greens and other open spaces and minimum lot area legally required for a building shall be a continuing obligation of the owner of the building or of the property on which it is located as long as the building is in existence. Furthermore, no legally required yards, courts, plazas, common greens, other open space, or minimum lot area allocated to any building, by virtue of change of ownership or for any other reason, shall be used to satisfy yard, court, plaza, common green other open space, or minimum lot area requirements for any other building.

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(B) No zoning lot improved with a building or buildings shall be divided into two or more zoning lots; and no portion of any zoning lot which is improved with a building or buildings shall be sold, unless all zoning lots resulting from each division or sale and improved with a building or buildings shall conform with all the bulk regulations of the zoning district in which the property is located. However, with respect to the re-subdivision of improved zoning lots in R5 and R6 Districts or improved transitional zoning lots in an R4 District, side yard requirements shall not apply between attached buildings.

(C) All yards, courts, plazas, common greens, and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as the building or dwelling group. Front yards shall not be paved except under the following conditions.

- (1) Residential Districts. Driveways of not more than 25 feet in width, perpendicular to the front property line, are permitted.
- (2) Business Districts. Driveways of not more than 35 feet in width, perpendicular to the front property line, are permitted.
- (3) Manufacturing Districts. Driveways of not more than 35 feet, perpendicular to the front property line, are permitted.

(D) No yards now or hereafter provided for a building existing on the effective date of this chapter shall subsequently be reduced below, or further reduced below if already less than the minimum yard requirements of this chapter for equivalent new construction.

(E) Permitted obstructions in required yards.

(1) In all yards. Open terraces not over 4 feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch; awnings and canopies; steps 4 feet or less above grade, which are necessary for access to a permitted building or for access to a zoning lot from a streets or alley; chimneys projecting 18 inches or less into the yard; recreational and laundry-drawing equipment; arbors, trellises, and flag poles are permitted.

(a) Open mesh fences having a height of 6 feet or less may be used to locate property lines within the required side or rear yards in the R Districts. Open mesh-type fences having a height of 4 feet or less may be used to locate property lines within required front yards in the R Districts where authorized by the Board of Appeals in accordance with §§ 163.020 through 163.044.

(b) Fences, walls, or lattice-work screens which form outside living rooms or provide necessary privacy for swimming pools or other activities and are actual projections from the bearing walls of existing dwellings may be extended into either the side or the rear yard, but not both yards, where the fence, wall, or screen has not less than 50% of the surface open, or is a vertical type of louvered fence which can prevent free movement of air from one or more directions and yet have more than 50% of its surface open when viewed on an angle from two directions. However, the projection shall not prohibit the erection of an open mesh-type fence over 6 feet in height enclosing an elementary or high school site, and this projection shall not limit the height, type, or location of a fence, wall, or other structure which is located within the buildable area exclusive of the side or rear yards of the property.

(c) In all business districts, fences and walls located in the front yard shall not exceed 42 inches in height above the finished ground level. Fences having a height of more than 42 inches may be used in business districts where authorized by the Board of Zoning Appeals in

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accordance with §§ 163.020 through 163.043.

(d) In all business districts, no fence or wall, any part of which is barbed wire, may be erected on the front yard or area adjoining and adjacent to any street or highway. Barbed wire may be used on fences or walls provided said wire is more than 6 feet above ground.

(e) All front yard fences or walls shall be erected at least 10 feet from the property line. The setback area shall be appropriately screened and landscaped. Landscaping shall be installed in such a manner as to promote compatibility with the commercial uses in the surrounding areas, and to negate adverse visual effects of the fence or wall.

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(f) The location of a fence on the side yard of a corner lot shall be 5 feet from the property line. Further, all fences higher than 42 inches shall be reviewed and approved for vehicular and/or pedestrian safety by the Traffic Engineer.

(2) In front yards. One-story bay windows projecting 3 feet or less into the yard, and overhanging eaves and gutters projecting 3 feet or less into the yard are permitted.

(3) In rear yards. Enclosed, attached, or detached off-street parking spaces; open off-street parking spaces; accessory sheds, tool rooms, and similar accessory buildings or structures for domestic and agricultural storage; balconies; breezeways and open porches; one-story bay windows projecting 3 feet or less into the yard; overhanging eaves and gutters projecting 3 feet or less into the yard are permitted. No accessory building shall be nearer than 3 feet to the side lot line. No accessory building or use shall be nearer than 3 feet to the rear lot line.

(4) In side yards. Overhanging eaves and gutters projecting into the yard for a distance not exceeding 40% of the required yard width, but in no case exceeding 30 inches are permitted.

('60 Code, § 6-507) (Ord. 3376, passed; Am Ord. 3515, passed; Am. Ord. 3721, passed; Am Ord. 4544, passed 6-1-71; Am. ord. 6247B, passed 6-22-88) Penalty, see § 163.999

#### **§ 163.010 \_\_ PERFORMANCE STANDARDS.**

The performance standards for the M1 Manufacturing District, as set forth in § 163.081 regarding noise, odorous matter, vibration, toxic or noxious matter, glare or heat, and fire and explosive hazards, shall also apply to all residence or business districts. ('60 Code, § 6-508) (Ord. 3376, passed)

#### **§ 163.011 \_\_ EXISTING SPECIAL USES.**

Where a use is classified as a special use under this chapter, and exists as a special or permitted use at the date of the adoption of this chapter, it shall be without further action of the City Council, the Zoning Administration, or the Board of Zoning Appeals, a legal use. ('60 Code, § 6-509) (Ord. 3376, passed)

#### **§ 163.012 \_\_ EXPLOSIVES.**

For the purpose of this chapter, the list of materials or products which decompose by detonation when in sufficient concentrations includes, but is not limited to, the following.

- (1) Acetylides.
  - (2) Azides.
  - (3) Chlorates.
  - (4) Dynamite.
  - (5) Blasting gelatin.
  - (6) Fulminates.
  - (7) Anhydrous hydrazine.
  - (8) Ammonium nitrates.
  - (9) Dinitroresorcinol.
-

- (10) Dinitrotoluene.
  - (11) Guanidine nitrate.
  - (12) Guncotton (cellulose nitrate with nitrogen content in excess of 12.2%, or pyroxylin).
  - (13) Hexamine.
  - (14) Nitroglycerin.
  - (15) Petn (pentaerythritoltetranitrate).
  - (16) Picric acid.
  - (17) Tetryl (trinitrophenylmethyltramine).
  - (18) Cylonite or hexogen (trimethylene, trinitramine).
  - (19) Dinol.
  - (20) Petryl.
  - (21) TNT (trinitrotoluene).
  - (22) Perchlorates (when mixed with carbonaceous materials).
  - (23) Black powder.
  - (24) Fireworks.
  - (25) Greek fire.
  - (26) Permanganates.
  - (27) Peroxides (except hydrogen peroxide in concentrations of 35% or less in aqueous solution).
- ('60 Code, § 6-1401) (Ord. 3376, passed)
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**§ 163.013 \_\_ ZONING DISTRICTS.**

In order to carry out the purposes and provisions of this chapter, the City is divided into the following zoning districts.

(A) Residence districts.

- |     |      |                                   |                                   |
|-----|------|-----------------------------------|-----------------------------------|
| (1) | R1.  | One-family dwelling district      | Maximum floor area ratio of 0.5.  |
| (2) | R1A. | One-family dwelling district      | Maximum floor area ratio of 0.5.  |
| (3) | R2.  | One-family dwelling district      | Maximum floor area ratio of 0.5.  |
| (4) | R3.  | One-family dwelling district      | Maximum floor area ratio of 0.5.  |
| (5) | R4.  | One-family dwelling district      | Maximum floor area ratio of 0.75. |
| (6) | R5.  | Multiple-family dwelling district | Maximum floor area ratio of 1.0.  |
| (7) | R6.  | Multiple-family dwelling district | Maximum floor area ratio 2.0.     |
| (8) | R7.  | Multiple-family dwelling district | Maximum floor area ratio of 3.0.  |

(B) Business districts.

- |     |     |  |                                  |
|-----|-----|--|----------------------------------|
| (1) | B1. | Limited retail districts.              |                                  |
|     | (a) | B1-1.                                  | Maximum floor area ratio of 1.5. |
|     | (b) | B1-2.                                  | Maximum floor area ratio of 2.0. |
| (2) | B2. | General retail districts.              |                                  |
|     | (a) | B2-1.                                  | Maximum floor area ratio of 1.5. |
|     |     | B2-2.                                  | Maximum floor area ratio of 2.5. |
|     |     | B2-3.                                  | Maximum floor area ratio of 3.5. |
| (3) | B3. | Limited service districts.             |                                  |
|     | (a) | B3-1.                                  | Maximum floor area ratio of 1.5. |
|     | (b) | B3-2.                                  | Maximum floor area ratio of 2.5. |
| (4) | B4. | General service districts.             |                                  |
|     | (a) | B4-1.                                  | Maximum floor area ratio of 2.0. |
|     | (b) | B4-2.                                  | Maximum floor area ratio of 3.5  |
|     | (c) | B4-3.                                  | Maximum floor area ratio of 4.0  |
| (5) | B5. | Wholesale and motor vehicle districts. |                                  |
|     | (a) | B5-1.                                  | Maximum floor area ratio of 2.5. |
-

(b) B5-2. Maximum floor area ratio of 3.5.

(C) Manufacturing districts.

(1) M1. Limited manufacturing districts. M1-1.

(a) M1-1. Maximum floor area ratio of 1.0.

(b) M1-2. Maximum floor area ratio of 1.5.

(2) M2. General manufacturing districts. M2-1.

M2-1. Maximum floor area ratio of 1.5

M2-2. Maximum floor area ratio of 2.0

(D) ('60 Code, § 6-301) (Ord. 3376, passed)

**§ 163.014 \_\_ FEE SCHEDULE.**

(A) Intent and purpose. The intent and purpose of this section is to reimburse the City for planning services, reviews, and inspections, and to defray the City's expense involved with preparation, mailing, and publication of notices. Fees are imposed on the following activities which shall be charged by the City as specified in this section and collected by the City Controller.

(B) Schedule of fees.

(1) Application to the Board of Zoning Appeals.

(a) Request for developmental standard variance, \$100.

(b) Applications involving special exceptions, conditional uses, or special uses:

1. Parking lot in residential district, \$50.

2. Group home, \$50.

3. Private recreational facilities, \$75.

4. Planned unit development, \$150.

5. Mobile home park, \$150.

6. Other conditional or special use, \$75.

(c) Request variances, \$300.

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(2) Application to the Plan Commission.

(a) Change of zoning, \$50.

(b) Public hearing scheduled before Plan Commission/City Council (due before date is set), \$25.

(c) Subdivision review.

1. Preliminary approval (based on number of proposed lots in original or approved preliminary plat, whichever is higher).

\$75 for project of 1 - 10 lots plus

\$ 5 per lot 11 - 25 plus

\$ 2 per lot 26 - 50 plus

\$ 1 per lot over 51 lot.

2. Final approval. Plat check fee against approved preliminary plat, \$50.

3. Site development permit. Review for permit not included in subdivision approval or a part of a building permit application, \$50 plus \$25 each acre or part thereof over one acre.

4. Condominium projects. Based upon number of units proposed in preliminary plot map.

\$50 per project plan plus

\$20 per unit 1 - 10 plus

\$10 per unit over 10.

(d) Excavation of soil and sand resources based upon the number of cubic yards to be excavated and subsequently be removed.

\$300 per project plus

\$100 per each 0 - 10 cubic yard \$ 75 per each 11 - 50 cubic yard; or

\$ 50 per each over the 50th cubic yard.

(e) Vacation, \$150. Upon approval of the vacation an additional \$5 shall be submitted to the City Clerk.

(f) Amendments to the zoning code, \$100.

(Ord. 5978, passed 7-3-84)

**§ 163.015 \_\_ SOLID WASTE OR HAZARDOUS SUBSTANCE DISPOSAL SITES OR LANDFILLS.**

Solid waste disposal sites, hazardous waste sites, manufacturing sites containing toxic substances and potentially polluting substances (reference City environmental ordinances 7394 and 7641) and/or landfills shall be special uses prohibited from locating within one mile of each other and from locating within one mile of a residentially zoned district.

(Ord. 6245, passed 6-7-88) Penalty, see § 163. 999

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## **ADMINISTRATION**

### **§ 163.020 \_\_ DEPARTMENT OF DEVELOPMENT AND PLANNING.**

(A) There is established an executive department of the municipal government of the City which shall be known as the Department of Development and Planning ("Department"). The Department shall include, as its department head, the Director of Development and Planning ("Director") who shall be appointed by the Mayor. The Department shall also include other employees that may be designated by the Director, and provided for by the Mayor and the Common Council in an annual appropriation ordinance. All officers and employees of the Department shall be under the direction and supervision of the Director and shall perform all duties required by the Director or by the provisions of this chapter.

(B) It shall be the duty of the Director to coordinate the formulation of physical improvement projects and programs affecting the present and future development of the City, including those projects and programs proposed by the respective executive departments of City government; to create, maintain, and expand a comprehensive general master plan of the City; to keep the City zoning code under constant review and to recommend amendments as necessary to keep pace with changing conditions; and to coordinate the development of a long range capital improvement program.

(C) The Department shall include those divisions that may be necessary or desirable to enable the performance of the duties of the Director as herein set forth in this section, and as provided in the annual appropriation ordinance approved by the Mayor and the Common Council. ('67 Code, § 6-1301) (Ord. 3376, passed; Am. Ord. 4126, passed; Am. Ord. 4929, passed 9-3-74)

### **§ 163.021 \_\_ BOARD OF ZONING APPEALS.**

(A) A Board of Zoning Appeals ("Board") is created, as set forth in IC 36-7-4-901 and 36-7-4-902. None of the members may hold other elective or appointive office, except as set forth in IC 36-7-4-902. A member must be a resident of the jurisdictional area of the Board.

(B) The members of the Board shall be appointed for the following terms: one for a term of one year; one for a term of two years; one for a term of three years; and two for a term of four years. The terms shall expire on the first day of January of the first, second, third, or fourth year, respectively, following the appointment. Thereafter, as the terms expire, each new appointment shall be for a term of four years. If a vacancy occurs, by resignation or otherwise, among the members of the Board, the Mayor shall appoint a member for the unexpired term.

(C) At the first meeting of each year, the Board shall elect a Chairman and Vice-Chairman from its members. The Vice-Chairman shall have authority to act as Chairman during the absence or disability of the Chairman. The presence of three members of the Board shall be necessary to constitute a quorum. No action of the Board is official, however, unless authorized by a majority of the Board. The Board may appoint and fix the compensation of a Secretary and any other employees that are necessary for the discharge of its duties, all in conformity to and compliance with salaries and

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compensations fixed by the Common Council.

(D) The Common Council shall provide suitable offices for the holding of hearings and the preservation of records, documents, and accounts. The Common Council may appropriate funds to carry out the duties of the Board and the Board shall have the authority to expend, under regular city or county procedure, all sums appropriated to it for the purposes and activities authorized herein.

(E) The members of the Board shall serve without salary.

(F) The Board shall adopt all rules concerning the filing of appeals and applications for variances and exceptions, giving of notice, and conduct of hearings, as shall be necessary to carry out its duties as defined herein. The Board shall keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record the vote on all actions taken. All minutes and records shall be filed in the office of the Board and shall be a public record.

(G) The Board shall have the powers and duties as set forth in IC 36-7-4-918.1 et seq., and as follows:

(1) Hear and determine appeals from and review any order, requirement, decision, or determination made by the Director of the Department of Development and Planning under this chapter, and as set forth under IC 36-7-4-918.1.

(2) Hear and pass upon applications for variations from the district regulations provided in this chapter, and as set forth under IC 36-7-4-918.3.

(3) Authorize upon appeal the variations from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship, so that the spirit of the chapter shall be observed and substantial justice done.

(4) Hear and decide special exceptions to the terms of this chapter upon which the Board is required to act.

(5) The Board shall forward to the Common Council a listing of all new petitions which are scheduled for hearing before the Board, said listing to include the names, addresses, and requests of all petitioners. The listing shall be forwarded on a monthly basis.

(H) All decisions and findings of the Board, on appeal or upon application for a variation after a hearing, shall be subject to review by court as by law may be provided. ('60 Code, § 6-1302) (Ord. 3376, passed; Am. Ord. 5737, passed 7-21-81)

### **§ 163.022 \_\_ CITY PLAN COMMISSION; POWERS AND DUTIES.**

The City Plan Commission, as established under §§ 35.15 through 35.22, is hereby vested with the following jurisdiction and authority.

(A) Receive from the City Clerk copies of all proposed ordinances, other than those originating from petition of the Plan Commission, for the amendment, supplement, change, or repeal of the zoning code or for the authorization of special uses as set forth in this chapter.

(B) Consider all proposed ordinances referred to it and to hold public hearings thereon in the manner prescribed in § 163.040.

(C) Following public hearings, to submit to the Common Council a report and recommendations on each proposed ordinance for the amendment, supplement, change, or repeal of the zoning code or for the authorization of a special use.

(D) On its own initiative, to petition the Common Council requesting an amendment, supplement, change, or repeal of the zoning code, provided it has first held public hearings thereon in the manner prescribed in § 163.040.

(E) Initiate, from time to time, a comprehensive review of the provisions of the zoning code, and make a report of its findings and recommendations to the Common Council at least once every two years.

(F) The Plan Commission shall forward to the Common Council a listing of all new petitions which are scheduled for hearing before the Commission, said listing to include the names, addresses, and requests of all petitioners. The listing shall be forwarded on a monthly basis.

('60 Code, § 6-1303) (Ord. 3376, passed; Am. Ord. 5739, passed 7-21-91)

In addition, the City Plan Commission shall have the duties and powers authorized under I.C. 36-7-4-400 titled Duties and Powers.

#### **§ 163.023 \_\_ ZONING CERTIFICATES.**

(A) Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by an officer, department, or employee of the City unless the application for the permit has been examined by the Director of the Department of Development and Planning and has affixed to it a certificate of his office that the proposed building or structure and use thereof complies with all the provisions of this chapter.

(1) However, with respect to the performance standards of this chapter for manufacturing and other specified uses, the Director shall accept as proof of compliance with these standards the certificate of an architect or structural engineer, licensed by the state, stating that the building or structure and proposed use thereof does conform with the performance standards for the district in which it is located. Upon receipt of the certificate, and if all other relevant requirements of this chapter are met, the Director shall without further delay approve and authorize the issuance of a zoning certificate; within 15 days from the date of the approval, the Director shall examine the application and shall advise the architect or structural engineer, in writing, if the building, structure, or use thereof does not in fact comply with the performance standards of this chapter for the district in which it is or is to be located. Failure of the architect or structural engineer to show compliance within 30 days of the notification shall be cause for revocation of the zoning certificate.

(2) Any permit, zoning certificate, or certificate of occupancy issued in conflict with the provisions of this chapter shall be null and void.

(B) Every application for a new building permit in addition to an existing building shall be accompanied by the following.

(1) A plat of the piece or parcel of land, lot, lots, block, blocks, or parts or portions thereof, drawn to scale, showing the actual dimensions and certified by a land

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surveyor or civil engineer, licensed by the state, as a true copy of the piece or parcel, lot, lots, block, blocks, or portions thereof, according to the registered or recorded plat of the land when required or considered necessary by the Director.

(2) A plat drawn to scale in the form that may from time to time be prescribed by the Director, showing the ground area, height and bulk of the building or structure, the building lines in relation to lot lines, the use to be made of the building or structure of land, and other information as may be required by the Director for the proper enforcement of this chapter.

(3) Each of the two plats shall be attached to the application for a building permit when it is submitted for a zoning certificate and shall be retained by the Director as a public record.

('60 Code, § 6-1304) (Ord. 3376, passed)

#### **§ 163.024 \_\_ CERTIFICATES OF OCCUPANCY.**

(A) No building, or alteration, modification, or addition thereto, constructed or made after the effective date of this chapter; no alteration, modification, or addition to a previously existing building; and no land vacant on the effective date of this chapter shall be used or occupied for any purpose until a certificate of occupancy is issued by the office of the Director of the Department of Development and Planning. Further, no changes in any residential, business, or manufacturing principal or accessory use or uses of a lot or building, or any portion thereof, shall be made or affected until a certificate of occupancy has been issued by the office of the Director. Such changes, for the purposes of this section, shall include but are not limited to changes in type, nature, or classification of a dwelling or dwelling unit; type or nature of goods dispensed; type or nature of goods resulting from or materials used in production, processing, or storage; and changes resulting in reclassification or amended performance standards to uses enumerated in §§ 163.050 through 163.083. Every certificate of occupancy shall state that the use or occupancy complies with all provisions of this chapter.

(B) Every application for a building permit shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new use of land where no building permit is required shall be made directly to the office of the Director.

(C) No occupancy certificate shall be issued until construction has been completed or the use established, and has been inspected and certified by the office of the Director to be in compliance with all the provisions of this chapter. Pending the issuance of a regular certificate, a temporary certificate may be issued to be valid for a period not to exceed six months from its date during the completion of any addition or during the partial occupancy of the premises. An occupancy permit shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued later than 14 days after the office of the Director is notified in writing that the building or premises is ready for occupancy. ('60 Code, § 6-1305) (Ord. 3376, passed; Am. Ord. 4035, passed)

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## **VARIANCES**

### **§ 163.030 \_\_ APPLICATION.**

(A) In order that the spirit of this chapter may be observed and substantial justice done, the Board of Zoning Appeals may, upon application or appeal, grant the variations enumerated in § 163.031. The Board shall make a finding of fact that, owing to special conditions, a literal enforcement of the provision of this chapter would result in unnecessary hardship.

(B) In making its determination as to whether there is unnecessary hardship, the Board shall take into consideration the extent to which the following conditions, all favorable to the applicant or appellant, have been established by the evidence.

(1) The particular physical surroundings shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

(2) The conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.

(3) The alleged difficulty or hardship has not been created by any person presently having an interest in the property.

(4) The granting of the variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

(5) The proposed variation is within the purposes of this Ordinance (§ 163.002) and but more specifically, but not limited to the following: will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, substantially diminish or impair property values within the neighborhood, improves access management, or will not negatively impact or effect ecologically/scientifically significant natural areas, fish and wildlife habitat areas, or identified natural features or mitigate any negative impacts.

(C) The Board of Appeals may impose conditions and restrictions upon the premises benefited by a variation as may be necessary to prevent injurious effects therefrom upon other property in the neighborhood and better to carry out the general intent of this chapter. ('60 Code, § 6-1306) (Ord. 3376, passed; Am. Ord. 3761, passed)

### **§ 163.031 \_\_ STANDARDS FOR GRANTING VARIANCES.**

Variations from the regulations of this chapter shall be granted by the Board of Zoning Appeals only in accordance with the standards set forth in § 163.030, and may be granted in the following instances only, and in no others.

(A) Permit the use of a temporary building for the business of manufacturing, in any district, for a use otherwise excluded from that district, provided the use is incidental to the construction of new buildings and facilities and the development of that district and that the use shall not continue for a period of more than one year.

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(B) Permit the reconstruction within 12 months of a building located in a district restricted against the use, which has been damaged by fire or other causes to the extent of not more than 50% of its replacement value, exclusive of foundations and land; however, when the reconstruction becomes involved in litigation, the time involved shall not be counted as a part of the 12 months allowed for reconstruction.

(C) Permit the extension of any district where the boundary line of a district divides a zoning lot, provided the zoning lot is in single ownership on May 19, 1964.

(D) Permit any yard of less dimension than required by the applicable regulations.

(E) Permit any building or structure to exceed the height limitations imposed by the applicable regulations.

(F) Permit the use of a lot for a use otherwise prohibited because of insufficient lot dimensions or area, but in no event shall the area of the lot be less than 90% of the required lot area.

(G) Permit the alteration or enlargement of an existing building or use located on premises in a district which prohibits the use of land or buildings, the height and area of buildings existing on December 3, 1957 where the alteration or enlargement is a necessary incident to the use of the structure existing on December 3, 1957. However, the alteration or enlargement shall in no case be extended more than 50 feet from a structure existing at the time of adoption or amendment of this chapter.

(H) Extend the period within which a nonconforming business or manufacturing use is to be removed from a dwelling district when the owner or owners can furnish substantial proof that the building was so extensively remodeled, reconstructed, or structurally altered after the original construction that it practically resulted in a new building having a valuation of more than \$5,000. However, the extension of the period shall not exceed the termination periods, established in § 163.127 from the date of the remodeling, reconstruction, or structural alteration.

(I) Interpret the provisions of this chapter where the ground varies from the street layout as shown on the zoning map.

(J) Reduce the applicable off-street parking or loading facilities required.

(K) Increase by not more than 25% the maximum distance that required parking spaces are permitted to be located from the use served.

(L) Permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of the facility by each user does not take place at approximately the same hours of the same days of the week.

(M) Permit front yard fences.

(N) Permit other variances, not provided for in this section, which are required to expand, alter, or renovate institutions of public service, religious, philanthropic, or eleemosynary use existing on May 24, 1964.

(O) Permit the use of a lot of record which is less than the prescribed zoning lot in lineal and area dimensions but whose frontage is greater than 50% in width of every improved zoning lot on the same block on the same side of the street at the time of construction. However, if the lot of record is in the same ownership on or after the effective date of this

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ordinance as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined in a single zoning lot for this purpose or unless further subdivision produces the requisite minimum lot width.

(P) Permit signs to exceed height limitations.

('60 Code, § 6-1307) (Ord. 3376, passed; Am. Ord. 3948, passed; Am. Ord. 4017, passed; Am. Ord. 4318, passed)

(Q) A proposed alteration or rehabilitation, development or redevelopment of land or a structure provides for the implementation of sustainable development principles and initiatives as approved by the Commission.

### § 163.032 \_\_ PUBLIC HEARING.

(A) An application for a variation shall be filed with the Board of Zoning Appeals. The application shall be in the form and shall contain the information that the Board shall from time to time prescribe by general rule. Upon receiving an application for a variation, the Board shall, according to its rules of procedure, fix a reasonable time for a public hearing thereon and give public notice of the hearing. ('60 Code, § 6-1308)

(B) An appeal may be taken to the Board by any person, firm, or corporation, or office, department, board, or bureau affected by a decision of the office of the Director of the Department of Development and Planning. The appeal shall specify the grounds thereof and shall be filed within the time and in the form as may be prescribed by the Board by general rule. The Director shall, upon request of the Board, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal was taken.

(C) The Board shall fix a reasonable time for the hearing of an appeal. Public notice shall be given of the hearing and due notice shall be given additionally to the interested parties. The Board may require the party taking the appeal to assume the cost of public notice and due notice to interested parties. At the hearing, any party may appear in person, by agent, or by attorney.

(D) When an appeal from the decision of the Director has been taken and filed with the Board, all proceedings and work on the premises concerning which the decision was made shall be stayed unless the Director certifies to the Board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work shall not be stayed except by a restraining order which may be granted by the Board or by a circuit or superior court of Lake County, on application of notice to the Director and the owner of the premises affected and on due cause shown. After the owner or his agents or persons, or a corporation in charge of the work on the premises affected have received notice that an appeal has been filed with the Board, the Director shall have full power to order the work discontinued or stayed and to call upon the police power of the city or county to give full force and effect to the order.

(E) In exercising its powers, the Board may, upon the concurring vote of three members, reverse or affirm, partly or wholly, or may modify the order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises; and to that end it shall have all the powers of the Director.  
( '60 Code, § 6-1309)(Ord. 3376, passed)

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**§ 163.033 \_\_ SPECIAL EXCEPTIONS.**

(A) The Board of Zoning Appeals shall hear and decide on applications for special exceptions to the terms of this zoning code in the classes of cases set forth in this section. The Board may authorize an exception if it has determined that the authorization is consistent with the spirit of this chapter and that the exception will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. After a public hearing noticed and held in the manner prescribed in § 163.032 for variations and appeals, the Board may allow as a special exception the following:

(1) The same off-street parking facility to qualify as a shared parking facility for two or more uses, provided the substantial use of the facility by each user does not take place at approximately the same hours of the same days of the week.

(2) A nonconforming use or building to be continued beyond the period of time prescribed in § 163.127 for the termination thereof is permitted; provided the extension of time is granted within six months before the end of the original period and is no longer than the original termination period. The Board may, after public hearing noticed and-held, renew any extension of time within six months before the end thereof but not longer than the original termination period, and in no case for longer than ten years.

(3) In a residentially zoned district on sites not less than 10 acres in area, outdoor recreation uses, but not including the dispensing of food or beverages, or any merchandise or equipment not directly related to the recreational use, is permitted. In addition, the following requirements must be met.

(a) Paved off-street parking is provided in an amount as determined by the Board.

(b) Trash and litter control and waste collection areas are provided by the petitioner.

(4) In M2 and M3 Districts, the treatment, storage and disposal of toxic waste or infectious materials, but only if the use has:

(a) Been reviewed and a report issued by the Gary Environmental Affairs Department, the Gary Fire Department and the Gary Health and Human Services Department. The review shall be conducted using any available information and shall include any applicable United States Environmental Protection Agency, the Indiana Department of Environmental Management or local, state or federal laws, regulations or standards;

(b) The Department's report, including a recommendation as to whether the health and safety standards have met, has been submitted to the Zoning Administrator, and

(c) Met the health and safety standards set by the Department's listed above.

(5) The petitioner documents and presents to the Commission that proposed special exception provides for the implementation of sustainable development principles and initiatives as approved by the Commission.

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(B) The Board may impose those restrictions and conditions upon the premises benefited by an exception as may be necessary to prevent injurious effects therefrom upon other property in the neighborhood and better to carry out the general intent of this chapter. ('60 Code, 5 6-1310) (Ord. 3376, passed; Am. Ord. 4144, passed; Am. Ord. 4515, passed 12-13-70)

## **AMENDMENTS AND SPECIAL USES**

### **§ 163.040 \_\_ AMENDMENTS.**

(A) Amendments to the zoning code may be proposed by the Common Council, or petitions, duly signed, may be presented to the City Clerk requesting an amendment, supplement, or change of the regulations of the zoning code by the Plan Commission, or the owners of 50% or more of the area involved in the petition. The term amendment shall include the terms supplement, change or repeal, as applied to the regulations of the zoning code. Any proposed ordinance for the amendment of this zoning code not originating from petition of the Plan Commission shall be referred to the Plan Commission for consideration and report before any final action is taken by the Common Council.

(B) Before submission to the Common Council of a Plan Commission petition or report on a proposed ordinance referred to the Plan Commission for an amendment to the zoning code, the Plan Commission shall hold a public hearing thereon. At least ten days prior to the date set for hearing, the Plan Commission shall publish in a newspaper of general circulation in the City a notice of the time and place of the hearing.

(1) In the event that the report of the Plan Commission is adverse to a proposed amendment referred to it, the amendment shall not be passed except by an affirmative vote of at least 75% of the members of the Common Council.

(2) When a lot, lots, or parcel of land has less than 100 feet of frontage, or less than 10,000 square feet of area, no amendment shall be passed to change the zoning district in which the lot, lots, or parcel of land is located except where, in the event of passage of the amendment, the lot, lots, or parcel of land would be in the same zoning district as an adjoining lot, lots, or parcel of land.

(C) Public hearing before Common Council. Before any action can be taken by the Common Council on a proposed ordinance for an amendment to this zoning code, the Common Council shall hold a public hearing thereon. At least ten days prior to the date set for hearing, the Common Council shall publish in a newspaper of general circulation in the City a notice of the time and place of the hearing. The Common Council may require the petitioner the same kind of evidentiary material required by the Plan Commission, or such additional information as the Common Council may deem necessary. Adequate notice shall be given to the petitioner whenever the Common Council shall require additional information.

('60 Code, § 6-1311) (Ord. 3376, passed; Am. Ord. 5704, passed 2-24-81)

### **§ 163.041 \_\_ SPECIAL USES.**

(A) The formulation and enactment of this chapter is based on the division of the entire City into zoning districts, in each of which are authorized specified land uses that are: (i) permitted as mutually compatible; (ii) special exceptions; or (iii) transitional uses.

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It is recognized that special exceptions are land uses which it may be necessary or desirable to allow in a given zoning district but which on account of their potential impact upon neighboring land uses or public facilities need to be carefully regulated with respect to location or operation for the protection of the community. These land uses and fall into two categories:

(1) Uses either municipally operated or operated by publicly regulated utilities, or uses traditionally affected by public interest.

(2) Uses entirely private in character which on account of their peculiar locational need or the nature of the service they offer to the public may have to be established in a zoning district or districts in which they cannot reasonably be allowed as a permitted use under the zoning regulations.

It is also recognized that transitional land uses may be appropriate for those areas along a zoning district border to (i) allow for a mix of land uses from each zoning district that share a common border to provide for an overlap of zoning district land use activities and (ii) implement sustainable development principles and initiatives to overcome strict traditional zoning boundary delineations. Transitional uses may be permitted when located on a lot that is tangential to a zoning district boundary delineation or separated by a right-of-way, alley or public, private or railroad easement.

(B) An application for a special use shall be filed with the Planning Department upon the form and accompanied by the information established from time to time by the Planning Department. The City Clerk shall forward to the Planning Department without delay a copy of each ordinance proposed for authorizing a special use.

(C) Special uses shall be authorized by the Board of Zoning Appeals. No special use shall be granted by the Board unless the special use meets the following.

(1) The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, or general welfare.

(2) The special use will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted.

(3) The establishment of the special use will not impede or substantially alter the normal and orderly development and improvement of surrounding property for uses permitted in the district.

(4) Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

(5) Adequate measures have been or will be taken to provide for access management, ingress and egress so designed as to minimize traffic congestion on the public roads.

(6) The special use will be located in a district where such a use is authorized and all other requirements set forth in the Gary City Zoning Ordinance which are applicable to such special use will be met.

(7) The petitioner documents and presents to the Commission that proposed special use provides for the implementation of sustainable development principles and initiatives as approved by the Commission.

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(D) The Board provides conditions or restrictions upon the construction, locations, operation, and time limit that construction must begin or the special use is null and void, including but not limited to provisions for off-street parking and loading, as necessary to secure the general objectives of this chapter and to reduce injury to the value of property in the neighborhood.

('60 Code, § 6-1312) (Ord. 3376, passed; Am. Ord. 4255, passed; Am. Ord. 4266, passed; Am. Ord. 5965, passed 2-7-84)

#### **§ 163.042 \_\_ PLANNED DEVELOPMENTS.**

Planned developments, as defined in § 163.003 are of such substantially different character from other special uses that specific and additional standards and exceptions are hereby set out to govern the recommendations of the Plan Commission and the action of the Board of Zoning Appeals.

(A) Use exceptions. In the case of residential, business, or manufacturing planned developments, the Plan Commission may recommend and the Board may authorize that there be, in part of the area of the development and for the duration of the development, specified uses not permitted by the use of regulations of the district in which the development is located, provided the Plan Commission makes the following findings.

- (1) The uses permitted by the exception are necessary or desirable and are appropriate with respect to the primary purpose of the development.
- (2) The uses permitted by the exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood.
- (3) Not more than 20% of the ground area or of the gross floor area of the development shall be devoted to the uses permitted by the exception.
- (4) In a manufacturing planned development, additional uses allowed by exception shall conform with the performance standards of the district in which the development is located, as set forth in §§ 163.080 through 163.083.
- (5) Uses permitted provide for the implementation of sustainable development principles and initiatives as approved by the Commission;
- (6) Residential and business planned unit developments: (a) provide for pedestrian-orientated and/or transit-orientated developments that include pedestrian amenities and transportation mode options where necessary and as required by the Commission; and (b) are developed as human-scale design/developments; and include appropriate landscaping along public right-of-ways, open spaces, plazas, planter strips and common green areas.

(B) Bulk regulations. In the case of any planned development, the Plan Commission may recommend and the Board may authorize exceptions to the applicable bulk regulations of this chapter within the boundaries of the development, provided the Plan Commission makes the following findings.

- (1) Bulk regulation exceptions provide for the implementation of sustainable development principles and initiatives as approved by the Commission;
- (2) The exception shall be solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of the development, as well as of

neighboring properties, than would obtain under the bulk regulations of this chapter for buildings developed on separate zoning lots.

(3) The over-all floor area ratio of the development shall not exceed that prescribed in this chapter for the district in which it is located.

(4) The minimum lot area per dwelling unit requirements of this chapter shall be adhered to in any development containing residential uses, and that there shall be available to each residential building and immediately adjacent thereto, including the land area upon which it is erected, the minimum amount of land area required for the building under the lot area per dwelling unit provisions of this chapter.

(5) Spacing between principal buildings shall be at least equivalent to spacing required between buildings similarly developed under the terms of this chapter on separate zoning lots, due consideration being given to the openness normally afforded by intervening streets and alleys.

(6) Along the periphery of the planned developments, yards shall be provided as required by the regulations of the district in which the development is located. ('60 Code, § 6-1313) (Ord. 3376, passed; Am. Ord. 5965, passed 2-7-84)

#### **§ 163.043 \_\_ SPECIAL MANUFACTURING USES -MI DISTRICTS.**

(A) In order to protect areas devoted to residential, business, and light manufacturing uses from annoying or dangerous classes of industrial nuisances and hazards, the City has been divided into three manufacturing zoning districts, M1, M2, and M3, graduated respectively in terms of industrial performance standards from high to intermediate to low. For practical purposes, the performance standards in the M1 and M3 Districts have been supplemented by lists of the uses permitted in these zoning districts.

(1) It is recognized, however, that among the uses first permitted in an M2 zoning district there may be individual establishments having such high performance standards that they could safely be permitted in the M1 zoning district even though engaged in operations not listed as permitted in the M1 zoning district. It is consistent with the purposes of this chapter and with the welfare of the community that the provision be made to allow these individual establishments of high performance to be located in the M1 zoning districts. The Board of Zoning Appeals is empowered, therefore, to authorize as a special use in an M1 zoning district any individual establishment engaged in production, processing, cleaning, testing, or repair which is first permitted in an M2 zoning district under the terms of this chapter, but not first permitted in the M3 District, if the Board of Zoning Appeals is satisfied beyond a reasonable doubt that all performance standards for the M1 zoning district, as well as all other regulations, will be complied with.

(2) In authorizing this special use, the Board may, on advice of the Plan Commission, require the posting of a performance bond by the owners or operators of the proposed establishment, the bond to be subject to forfeiture and the money to be applied to the cost of any remodeling or other alterations necessary to ensure compliance with the M1 performance standards should the establishment in fact fail to so comply.

(B) Preliminary to making its report to the Board, the Plan Commission shall require the applicant for a special manufacturing use to furnish it with a certificate of an architect or structural engineer licensed by the state, which shall include the following.

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(1) A complete inventory of all machinery and fuel-burning equipment to be used in the conduct of the enterprise, together with any performance ratings which may be available from the manufacturers thereof.

(2) A statement that the proposed operations will conform with the performance standards for the M1 zoning district, and a description of the methods, structural and mechanical, which will be employed to keep any potential sources of nuisance in conformity with the performance standards.

(3) A statement and finding that the petition for a special manufacturing use: (i) will not negatively impact or effect adjacent residential or business zoning districts, ecologically/scientifically significant natural areas, fish and wildlife habitat areas, or identified natural features or mitigate any negative impacts or (ii) any negative impacts documented by the petitioner or the Commission will be mitigated prior to development.

(4) Other pertinent information as the Plan Commission shall deem necessary to assist it in making its findings and report.

('60 Code, § 6-1314) (Ord. 3376, passed; Am. Ord. 5965, passed 2-7-84)

## **RESIDENCE DISTRICTS**

### **§ 163.050 \_\_ APPLICABLE REGULATIONS.**

Use and bulk regulations applying specifically to residence districts are set forth in this subchapter. Also applying to residence districts are additional regulations set forth as follows.

- (A) Chapter 159 (Signs and Billboards).
- (B) §§ 163.001 through 163.015 (General Provisions).
- (C) §§ 163.020 through 163.024 (Administration).
- (D) §§ 163.030 through 163.033 (Variances).
- (E) §§ 163.040 through 163.043 (Amendments and Special Uses).

### **§ 163.051 \_\_ R1 AND R1A ONE-FAMILY DWELLING DISTRICTS (Traditional Neighborhood District)**

(A) The following land uses are authorized as permitted uses:

- (1) Residential uses, as follows: single-family detached dwellings.
  - (2) Community services uses, as follows: schools, elementary and high, non-boarding and including playgrounds and athletic fields auxiliary thereto.
  - (3) Miscellaneous uses, as follows: agricultural uses, including nurseries and truck gardens but not including the raising of poultry or livestock, provided no offensive odor or dust is created and there is no sale of products not produced on the premises.
  - (4) Uses incidental to principal permitted uses, as follows:
    - (a) Accessory uses.
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(b) Home occupations to permit by exception existing beauty and barber shops licensed by the state whose operation does not involve employed persons and is distinct and separate from residential quarters, provided the ownership, location, and license number are registered within 30 days after the adoption of this amendment in the office of the Plan Commission and the use is not reinstated if terminated or relinquished for any reason by the original registrant.

(c) Temporary buildings for construction purposes, for a period not to exceed the duration of the construction.  
(‘60 Code, § 6-602) (Ord. 3376, passed; Am. Ord. 3764, passed; Am. Ord. 4058, passed; Am. Ord. 5965, passed 2-7-84)

(B) The following land uses are authorized as transitional land uses §§ 163.041(A);

(1) When bordering a Residential or Business District, a Two-family detached dwellings and group living structures.

(2) When tangential to a Business District, principal offices of professional persons for the practice of medicine, dentistry, law, architecture, engineering and similar professions. Each office must be situated in the same dwelling unit as the home of the occupant, with not more than two persons other than members of the occupant's immediate family employed; and the residential character of the exterior of the dwelling shall be entirely maintained, except for the display of the accessory business signs permitted under the provisions of Chapter 159.

(‘60 Code, § 6-603)

(C) The following land uses may be allowed as special uses by approval of the Board of Zoning Appeals of the City in accordance with §§ 163.020 through 163.043.

(1) Cemeteries, including crematories and mausoleums in conjunction therewith, if not located within 300 feet of any other property in a residence district.

(2) Colleges or universities, but not business colleges or trade schools.

(3) Convents and monasteries.

(4) Hospitals, nursing home/convalescent center; assisted living center; intermediate care facility; independent living center; group home - community residence; state licensed.

(5) Golf courses, but not including commercially-operated driving ranges or miniature golf courses.

(6) Institutions for children.

(7) Open spaces, parks, playgrounds, and community centers, publicly and privately owned and operated.

(8) Planned developments, residential.

(9) Public utility and public service uses, including the following:

(a) Bus turn-arounds (off-street).

(b) Fire stations.

(c) Police stations.

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- (d) Public art galleries and museums.
- (e) Telephone exchanges.
- (f) Railroad facilities.
- (g) Water filtration plants.
- (h) Water pumping stations.
- (i) Public libraries.
- (j) Water reservoirs.
- (k) Electric and gas public utilities.

(10) Community and Recreational buildings, privately owned and operated, not-for-profit.

(11) Nursery schools and day-care.

(12) Type I manufactured homes.

(13) Accessory off-street motor vehicle parking lots for other than residential uses. (See §§ 163.100 through 163.113).

(14) Churches, temples, mosques, or other places of religious worship, including rectors and parish houses. ('60 Code, 5 6-604) (Ord. 3376, passed; Am. Ord. 3764, passed; Am. Ord. 3937, passed; Am. Ord. 4515, passed 12-13-70; Am. Ord. 5965, passed 2-7-84)

(D) Every single-family detached dwelling hereafter erected and every two-family detached dwelling hereafter established as a transitional land use shall be on a zoning lot having a minimum area of 5,000 square feet and a minimum width of 59 feet at the building line.

However, a lot of record on the effective date of this chapter which is less than 5,000 square feet in area or 40 feet in width may be improved with a single-family detached dwelling or a two-family detached dwelling as a transitional land use where authorized by the Board of Appeals in accordance with §§ 163.020 through 163.043.

(E) Minimum lot sizes for special uses shall be prescribed by the Common Council with the advice of the Plan Commission at the time a special use permit is authorized, but in no case shall any lot size be less than 12,000 square feet in area nor less than 80 feet in width.

(F) The floor area ratio of buildings and structures on a zoning lot shall not exceed 0.5. ('60 Code, 5 6-608)

(G) The maximum building coverage on a zoning lot shall not exceed 40%.

(H) On every zoning lot, a front yard shall be provided. In no case shall the front yard be less in depth than 25 feet or 20% of the lot depth, whichever is less. The minimum depth shall be extended to not more than 40 feet where lots comprising 40% of the frontage on the same street and within the same block are developed, with buildings having front yards with a variation of not more than 10 feet in depth, the average of front yards to establish the minimum front yard depth for the entire frontage of the street within the same block.

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(1) For buildings exceeding 25 feet in height, the minimum front yard determined above shall be increased by 1 foot for each 2 feet or fraction thereof by which the building height exceeds 25 feet, but in no case shall a front yard of more than 40 feet be required.

(2) Required front yards shall be unobstructed from ground level to sky except as otherwise provided in § 163.009. ('60 Code, §6-610) (Ord. 3376, passed; Am. Ord. 3924, passed)

(I) On every zoning lot, side yards shall be provided as follows.

(1) On a lot improved with a single-family detached dwelling of one-story in height, a side yard shall be provided along each side lot line. The combined widths of both side yards shall be at least 12 feet or 20% of the lot width, whichever is less, provided neither side yard is less than 5 feet in width.

(2) On a lot improved with a one-family detached dwelling of more than one-story in height above grade, or with a two-family detached dwelling as a transitional land use, a side yard shall be provided along each side lot line. The combined widths of both side yards shall be at least 15 feet or 25% of the lot width, whichever is less, provided neither side yard is less than 5 feet in width.

For all other buildings on a lot improved with a building other than a residential dwelling, a side yard shall be provided along each side lot line. Each side yard shall be not less in width than 1/2 of the building height as defined in this chapter, but in no case less than 15 feet; however, this paragraph shall not pertain to § 163.051 (A).

(4) On a reversed corner lot, the side yard adjacent to the street shall not in any case be less than 10 feet in width, except as provided in § 163.051 (I) (5).

(5) If a lot of record on the effective date of this chapter which is 40 feet or less in width is to be improved with a one-family detached dwelling, and if an adjacent lot is already improved with a principal building, the side yard contiguous to the adjacent improved lot may be reduced below 5 feet but not below 3 feet, provided there is a minimum distance of 10 feet between buildings and provided the combined width of both side yards of the subject lot shall in no case be less than eight feet.

Required side yards shall be unobstructed from ground level to sky except as otherwise provided in § 163.009. ('60 Code, § 6-611) (Ord. 3376, passed; Am. Ord. 3402, passed; Am. Ord. 3752, passed; Am. Ord. 3812, passed)

(J) On every zoning lot, a rear yard shall be provided. The rear yard shall be not less in depth than 2/3 of the building height, as defined in this chapter, but in no case less than 30 feet. Required rear yards shall be unobstructed from ground level to sky, except as otherwise provided in § 163.009. ('60 Code, § 6-612)

(K) A one-story residential dwelling hereafter erected shall not have a total ground floor area of less than 1,200 square feet, and a dwelling of more than one-story shall not have a total floor area of less than 1,500 square feet. For the purposes of this determination, each floor shall be considered to be a continuous and unbroken surface extending to the exterior surfaces of exterior walls, but the following shall not be included in the measurement of floor area: basements or cellars if more than 25% of the story height is below finished grade; open porches; breezeways; accessory buildings, attached or

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detached; and other spaces not designed primarily for dwelling purposes. ('60 Code, § 6-613) (Ord. 3376, passed) Penalty, see § 163.999.

**§ 163.052 \_\_ R2 SINGLE-FAMILY DWELLING DISTRICTS (Traditional Neighborhood District)**

(A) The following land uses are authorized as permitted uses: any land use authorized as a permitted use in an R1 and R1A District as set forth in § 163.051(A).

(B) If not authorized as a permitted use in an R1 and R1A District or herein, the following land uses are authorized as transitional uses: any land use authorized as a transitional use in an R1 and R1A District as set forth in § 163.051(B).

(C) If not authorized as a permitted use or a transitional use in an R1 and R1A District or herein, the following land uses are authorized as special uses: any land use authorized as a special use in an R1 and R1A District as set forth in § 163.051 (C) ('60 Code, 5 6-615) (Am. Ord. 5965, passed 2-7-84)

(D) Every single-family detached dwelling hereafter erected and every two-family detached dwelling hereafter established as a transitional use shall be on a zoning lot having a minimum area of 6,000 square feet and a minimum width of 50 feet at the building line.

However, a lot of record on the effective date of this chapter which is less than 6,000 square feet in area or 50 feet in width may be improved with a single-family detached dwelling where authorized by the Board of Appeals in accordance with §§ 163.020 through 163.043. ('60 Code, 5 6-616) (Ord. 3376, passed; Am. Ord. 4013, passed; Am. Ord. 5965, passed 2-7-84)

(E) The floor area ratio of buildings and structures on a zoning lot shall not exceed 0.5.('60 Code, § 6-617)

(F) The maximum building coverage on a zoning lot shall not exceed 35%.

(G) The regulations governing front yards in an R1 District, as set forth in § 163.051(H), shall apply. ('60 Code, 5 6-619) (Ord. 3376, passed; Am. Ord. 3930, passed)

(H) The regulations governing side yards in an R1 District, as set forth in § 163.051(I) shall apply in an R2 District.

(I) The regulations governing rear yards in an R1 District as set forth in § 163.051 (J) shall apply in an R2 District. ('60 Code, § 6-620) (Ord. 3376, passed) Penalty, see § 163.999

**§ 163.053 \_\_ R3 SINGLE-FAMILY DWELLING DISTRICTS (Traditional Neighborhood District)**

(A) The following land uses are authorized as permitted uses: any use permitted in an R2 District, as set forth in § 163.052(A). ('60 Code § 6-621)

(B) If not authorized as a permitted use in an R2 District or herein, the following land uses are authorized as transitional uses: any land use authorized as a transitional use in an R2 District as set forth in § 163.052(B).

(C) If not authorized as a permitted use or a transitional use in an R2 District or herein, any land use authorized as a special use in an R2 District as set forth in § 163.052 (C).

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(D) Every single-family detached dwelling hereafter erected and every two-family detached dwelling hereafter established as a transitional use shall be on a zoning lot having a minimum area of 7,000 square feet and a minimum of 60 feet at the building line. However, a lot of record on the effective date of this chapter which is less than 7,000 square feet in area or 60 feet in width may be improved with a single-family detached dwelling where authorized by the Board of Zoning Appeals in accordance with 53 163.020 through 163.043. ('60 Code, § 6-624) (Ord. 3376, passed; Am. Ord. 4012, passed; Am. Ord. 5965, passed 2-7-84)

(E) The floor area ratio of buildings and structures on a zoning lot shall not exceed 0.5. ('60 Code, § 6-625)

(F) The maximum building coverage of all principal buildings on a zoning lot shall not exceed 35%.

(G) The regulations governing front yards in an R2 District, as set in 5 163.052(G) shall apply. ('60 Code, § 6-627) (Ord. 3376 passed; Am. Ord. 3930, passed)

(H) The regulations governing side yards in an R2 District, as set forth in 5 163.052 (H) shall apply in an R3 district. ('60 Code, § 6-628)

(I) The regulations governing rear yards in an R2 District, as set forth in § 163.052 (I) shall apply in an R3 district. ('60 Code, § 6-629) (Ord. 3376, passed)

**§ 163.054 \_\_ R4 TWO-FAMILY DWELLING DISTRICTS (Urban Neighborhood District)**

(A) The following land uses are authorized as permitted uses: any use permitted in an R3 District, as set forth in § 163.053(A). ('60 Code § 6-621); two-family detached dwellings and open spaces, parks, playgrounds, and community centers, publicly and privately owned and operated.

(B) If not authorized as a permitted use in an R3 District or herein, the following land uses are authorized as transitional uses: any land use authorized as a transitional use in an R3 District as set forth in § 163.053(B); attached home (town home or row house) dwellings, party-wall type; and multiple-family detached dwellings.

(C) If not authorized as a permitted use or a transitional use in an R3 District or herein, any land use authorized as a special use in an R3 District as set forth in § 163.053 (C), including the following: grocery or convenience stores, less than 6,000 square feet and on corner lot and mobile home parks.

(D) Further, the residential character of the exterior of the dwelling must be entirely maintained, except for the display of those accessory business signs that are permitted under the provisions of §§ 163.100 through 163.113. ('60 Code, § 6-631)

(E) Any permitted use hereafter erected or established shall be on a zoning lot having a minimum area of 5,000 square feet and a minimum width of 40 feet at the building line, provided a lot of record on the effective date of this chapter which is less than 5,000 square feet in area or 40 feet in width may only be improved with a single-family detached dwelling where authorized by the Board of Appeals in accordance with §§ 163.020 through 163.043. ('60 Code, § 6-633) (Ord. 3376, passed; Am. Ord. 4011, passed; Am. Ord. 5965, passed 2-7-84)

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(F) The floor area ratio of buildings and structures on a zoning lot shall not exceed 0.75. ('60 Code, § 6-634)

(G) The maximum building coverage on a zoning lot shall not exceed 40%. ('60 Code, § 6-635)

(H) The regulations governing front yards in an R3 District, as set forth in § 163.053 shall apply. ('60 Code, § 6-636) (Ord. 3376, passed; Am. Ord. 3930, passed)

(I) On every zoning lot, side yards shall be provided as follows:

(1) The regulations governing side yards for single-family detached dwelling one story in height in a R1 and R1A District, as set forth in 163.051 (I)(1), shall apply in an R4 District.

(2) On a lot improved with a permitted use of more than one story in height a side yard shall be provided along each side lot line. The combined widths of both side yards shall be at least 15 feet or 25 percent of the lot width, whichever is less, provided neither side yard is less than 5 feet in width.

(3) On a lot improved with any non-residential building, a side yard shall be provided along each side of lot line. Each side yard shall be not less in width than 1/3 of the building height, but in no case less than 12 feet.

(4) On a lot to be improved with an authorized transitional use, a side yard shall be provided along each side lot line. The combined widths of both side yards shall not be less than 16 feet, or 20% of the lot width, whichever is less, provided neither side yard is less in width than 1/5 of the building height, but in no case less than 5 feet, unless:

(a) On a lot to be improved with a residential building having a building width, as defined in § 163.013, in excess of 80 feet, a side yard shall be provided along each side lot line. Each side yard shall be not less in width than 10% of the building width or 20% of the building height, whichever computed yard width is the greater.

(b) On a lot improved with a non-residential building, a side yard shall be provided along each side lot line. Each side yard shall be not less in width than 1/3 of the building height but in no case less than 12 feet.

(3) On a reversed corner lot, the side yard adjacent to the street shall not in any case be less than 10 feet in width, except as provided in (I)(4) of this subsection.

(4) If a lot of record on the effective date of this chapter is 40 feet or less in width and is to be improved with a single-family detached dwelling, and if an adjacent lot is already improved with a principal building, then the side yard contiguous to the adjacent improved lot may be reduced below 5 feet, but not below 3 feet, provided there is a minimum distance of 10 feet between buildings and provided the combined width of both side yards shall in no case be less than 8 feet.

(5) For all other building on a lot improved with a building other than a residential dwelling, a side yard shall be provided along each side lot line. Each side yard shall be not less in width than chapter, but in no case less than 15 feet. However, this subsection shall not pertain to § 163.051(A)(4).

(6) On a reversed corner, the side yard adjacent to the street shall not in any case be less than 10 feet in width, except as provided in § 163.054 (H).

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(7) If a lot of record on the effective date of this chapter which is 40 feet or less in width is to be improved with a single-family detached dwelling, and if an adjacent lot is already improved with a principal building, the side yard contiguous to the adjacent improved lot may be reduced below 5 feet but not below 3 feet, provided there is a minimum distance of 10 feet between buildings, and provided the combined width of both side yards of the subject lot shall in no case be less than 8 feet.

(8) Required side yards shall be unobstructed from ground level to sky except as otherwise provided in § 163.009 ('60 Code, § 6-637) (Ord. 3376, passed; Am. Ord. 3736, passed)

(j) The regulations governing rear yards in an R3 District, as set forth in § 163.053 (I) shall apply in an R4 District. ('60 Code, § 6-638) (Ord. 3376, passed)  
Penalty, see § 163.999

**§ 163.055 \_\_ R5 MULTIPLE-FAMILY DWELLING DISTRICTS (Urban Neighborhood District)**

(A) The following land uses are authorized as permitted uses.

(1) Any use permitted in an R4 District as set forth in § 163.054(A).

(2) Additional residential uses, as follows: attached home (town home or row house) dwellings, party-wall type; and multiple-family detached dwellings; (Multiple-family dwellings.

(3) Additional non-residential uses, as follows: Principal offices of professional persons for the practice of medicine, dentistry, law, architecture, engineering and similar professions, except for the display of the accessory business signs permitted under the provisions of Chapter 159., all limited to the ground floor.

(B) If not authorized as a permitted use in an R4 District or herein, the following land uses are authorized as transitional uses: any land use authorized as a transitional use in an R4 District as set forth in § 163.054(B); including:

(1) Planned developments, residential.

(2) Public utility and public service uses, including the following.

(k) Bus turn-arounds (off-street).

(l) Fire stations.

(m) Police stations.

(n) Public art galleries and museums.

(o) Telephone exchanges.

(p) Railroad facilities.

(q) Water filtration plants.

(r) Water pumping stations.

(s) Public libraries.

(t) Water reservoirs.

(k) Electric and gas public utilities.

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(3) Community and Recreational buildings whether privately owned and operated or not-for-profit.

(4) Nursery schools and day-care.

(5) Type I manufactured homes.

(6) Accessory off-street motor vehicle parking lots for other than residential uses. (See §§ 163.100 through 163.113).

(7) Churches, temples, mosques, rectors, parish houses. ('60 Code, 5 6-604) (Ord. 3376, passed; Am. Ord. 3764, passed; Am. Ord. 3937, passed; Am. Ord. 4515, passed 12-13-70; Am. Ord. 5965, passed 2-7-84)

(C) If not authorized as a permitted use or a transitional use in an R4 District or herein, any land use authorized as a special use in an R4 District as set forth in § 163.054 (C), including the following:

(1) Nursing home/convalescent center.

(2) Assisted living center.

(3) Intermediate care facility.

(4) Independent living center.

(5) Group home - community residence, state licensed.

(D) For every residential dwelling unit established hereafter in a R5 district, there shall be provided a minimum of 1,200 square feet of lot area. No existing land use shall be converted in such a way as to conflict with or further conflict with these requirements.

No residential building shall be established hereafter on a lot which is less than 5,000 square feet in area and 40 feet in width at the building line, provided a lot of record on the effective date of this chapter which is less than 5,000 square feet in area or 40 feet in width may be improved with a single-family detached dwelling where authorized by the Board of Appeals in accordance with §§ 163.020 through 163.043.

No principal building other than a permitted residential building shall hereafter be established on a zoning lot having an area of less than 9,000 square feet and a width of less than 75 feet. ('60 Code, § 6-641) (Ord. 3376, passed; Am. Ord. 4014, passed; Am. Ord. 5965, passed 2-7-84)

(E) The floor area ratio of buildings and structures on a zoning lot shall not exceed 1.0. ('60 Code, § 6-642)

(F) The maximum building coverage on a zoning lot shall not exceed 40%.

(G) The regulations governing front yards in an R4 District, as set forth in § 163.054 (H) shall apply. ('60 Code, § 6-644) (Ord. 3376, passed; Am. Ord. 3930, passed)

(H) On every zoning lot, side yards shall be provided as follows:

(1) On a lot to be improved with a residential building, a side yard shall be provided along each side lot line. The combined widths of both side yards shall not be less than 16 feet, or 20% of the lot width, whichever is less, provided neither side yard is less in width than 1/5 of the building height, but in no case less than 5 feet.

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(2) On a lot to be improved with a residential building having a building width, as defined in § 163.013, in excess of 80 feet, a side yard shall be provided along each side lot line. Each side yard shall be not less in width than 10% of the building width or 20% of the building height, whichever computed yard width is the greater.

(3) On a lot improved with a nonresidential building, a side yard shall be provided along each side lot line. Each side yard shall be not less in width than 1/3 of the building height but in no case less than 12 feet.

(4) On a reversed corner lot, the side yard adjacent to the street shall not in any case be less than 10 feet in width.

(5) If a lot of record on the effective date of this chapter is 40 feet or less in width and is to be improved with a single-family detached dwelling, and if an adjacent lot is already improved with a principal building, then the side yard contiguous to the adjacent improved lot may be reduced below 5 feet, but not below 3 feet, provided there is a minimum distance of 10 feet between buildings and provided the combined width of both side yards shall in no case be less than 8 feet.

(6) Required side yards be unobstructed from ground level except as otherwise provided in § 163.009 ('60 Code, § 6-645)

(I) On every zoning lot, a rear yard of not less than 30 feet in depth shall be provided. Required rear yards shall be unobstructed from ground level to the sky, except as otherwise provided in § 163.009. Rear yard requirements shall not apply to a through lot. However, on a through lot which measures at least 125 feet in depth, street to street, there shall be provided either of the following:

(1) An unobstructed open strip located midway between the streets on which the lot fronts, and running across the full width of the lot, the strip to be at least 10 feet in depth plus an additional 2 feet deep for every 5 feet or fraction thereof by which the lot depth exceeds 125 feet, to a total depth of 60 feet; or

(2) An unobstructed open strip along all adjacent lot lines other than street lines, the strip to be at least 5 feet wide plus an additional 1 foot wide for every 5 feet or fraction thereof by which the lot depth exceeds 125 feet, to a total width of 30 feet. ('60 Code, § 6-646) (Ord. 3376, passed) Penalty, see § 163.999

#### **§ 163.056 \_\_ R6 MULTIPLE-FAMILY DWELLING DISTRICTS (Urban Neighborhood District)**

(A) The following land uses are authorized as permitted uses: any use permitted in an R5 District as set forth in § 163.055(A).

(B) If not authorized as a permitted use in an R5 District or herein, the land uses authorized as transitional uses in an R5 District.

(C) If not authorized as a permitted use or a transitional use in an R5 District or herein, any land use authorized as a special use in an R5 District as set forth in § 163.054 (C).

(D) For every dwelling unit established hereafter in an R6 District, there shall be provided a minimum of 1,250 square feet of lot area. No existing use shall be converted in such a way as to conflict with or further conflict with these requirements.

(E) No residential building shall be established hereafter on a lot which is less than 7,500 square feet in area and 60 feet in width, provided a lot of record on the effective date

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of this chapter which is less than 7,500 square feet in area or 60 feet in width may be improved with a single-family detached dwelling where authorized by the Board of Appeals in accordance with §§ 163.020 through 163.043.

(F) The floor area ratio of buildings and structures on a zoning lot shall not exceed 2.0. ('60 Code, § 6-650)

(G) The maximum building coverage of all principal buildings on a zoning lot shall not exceed 40%.

(H) The regulations governing front yards in an R5 District, as set forth in § 163.055 (G) shall apply. ('60 Code, § 6-652) (Ord. 3376, passed; Am. Ord. 3930, passed)

(I) The regulations governing side yards in an R5 District, as set forth in § 163.055 (H) shall apply.

(J) The regulations governing rear yards in the R5 District, as set forth in § 163.055 (J) shall apply. However, a rear yard in R6 may begin at a height of not more than 6 feet above curb level for the sole purpose of providing enclosed accessory off-street parking facilities beneath. However, when so elevated above normal grade level, there shall be no accessory buildings or other permanent structures erected on the yard and it shall be otherwise unobstructed from the lowest level to the sky, except as provided in § 163.009, when not in conflict with the foregoing requirement. ('60 Code, § 6-654) (Ord. 3376, passed) Penalty, see § 163.999

#### **§ 163.057 \_\_ R7 MULTIPLE-FAMILY DWELLING DISTRICTS (Urban Neighborhood District)**

(A) The following land uses are authorized as permitted uses: any use permitted in an R6 District as set forth in § 163.056(A).

(B) If not authorized as a permitted use in an R6 District or herein, the land uses authorized as transitional uses in an R6 District.

(C) If not authorized as a permitted use or a transitional use in an R6 District or herein, any land use authorized as a special use in an R6 District as set forth in § 163.054 (C).

(D) For every dwelling unit established hereafter in an R6 District, there shall be provided a minimum of 6,000 square feet of lot area. No existing use shall be converted in such a way as to conflict with or further conflict with these requirements.

(E) No residential building shall be established hereafter on a lot which is less than 10,000 square feet in area and 80 feet in width, provided a lot of record on the effective date of this chapter which is less than 10,000 square feet in area or 80 feet in width may be improved with a single-family detached dwelling where authorized by the Board of Appeals in accordance with §§ 163.020 through 163.043.

(F) The floor area ratio of buildings and structures on a zoning lot shall not exceed 3.0. ('60 Code, § 6-650)

(G) The maximum building coverage of all principal buildings on a zoning lot shall not exceed 50%.

(H) The regulations governing front yards in an R6 District, as set forth in § 163.056 (G) shall apply. ('60 Code, § 6-652) (Ord. 3376, passed; Am. Ord. 3930, passed)

(I) The regulations governing side yards in an R6 District, as set forth in § 163.056 (H) shall apply.

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(J) The regulations governing rear yards in the R6 District, as set forth in § 163.056 (J) shall apply.

(K) No amendment shall be passed to change the zoning district of any lot, lots, or parcels of land to the R7 District zoning classification unless the lot, lots, or parcels of land are either zoned to the R5 or R6 zoning classification, or are of a business zoning classification with a floor area ratio of at least 2.5.

## **BUSINESS DISTRICTS**

### **§ 163.065 \_\_ APPLICABLE REGULATIONS.**

Use and bulk regulations applying specifically to business districts are set forth in this subchapter. Also applying to business districts are additional regulations set forth in other sections of this chapter as follows:

- (A) Chapter 159 (Signs and Billboards).
- (B) §§ 163.001 through 163.015 (General Provisions).
- (C) §§ 163.020 through 163.024 (Administration).
- (D) §§ 163.030 through 163.033 (Variances).
- (E) §§ 163.040 through 163.043 (Amendments and Special Uses).
- (F) §§ 163.100 through 163.113 (Off-Street Parking and Loading).
- (G) §§ 163.120 through 163.128 (Non-Conforming Uses).

### **§ 163.066 \_\_ B1 LIMITED RETAIL DISTRICTS (Neighborhood Business District)**

(A) The following conditions shall be placed upon the land uses authorized as permitted or special use land uses in a B1 Limited Retail District:

- (1) Residential dwelling units of any type are not permitted below the second floor.
- (2) All business establishments shall be:
  - (a) Retail or service establishment dealing directly with consumers.
  - (b) All goods produced on the premises shall be sold at retail on the premises where produced, and not more than three person in addition to a single owner or manager shall be engaged at any one time in fabricating, repairing, cleaning, or processing of goods or products in any establishment.
  - (c) Establishments shall be developed as pedestrian-orientated and shall include human scale design/development elements.
  - (d) The following establishment elements shall be prohibited: (i) a drive-through/drive-up facility offering goods or services directly to customers waiting in parked or standing motor vehicles and (ii) related to an automobile orientated development.
  - (e) Establishments shall not be permitted which primarily sell alcohol under any ABL (an alcoholic beverage license as issued by the Indiana Alcohol and Tobacco Commission).

(3) Business establishments classified as retail and service hereafter and authorized as permitted land uses are restricted to a maximum gross floor area of 12,500 square feet each, exclusive of any floor area devoted to off-street parking, shared parking or loading facilities.

(4) All business, servicing, processing, or storage, except for off-street parking or loading, shall be conducted or located within completely enclosed buildings.

(B) In the B1-1 and B1-2 Districts the following land uses are authorized as permitted land uses, contingent upon the conditions under subsection (A):

(1) Neighborhood related and pedestrian-orientated retail and services uses, as follows:

(d) Book and stationery stores.

(e) Custom dressmaking, tailor and millinery shops.

(f) Drug and pharmaceutical stores.

(g) Dry cleaning and laundry receiving stations, processing to be done elsewhere.

(h) Florist shops.

(i) Food stores, including grocery stores, meat markets, bakeries, candy and ice cream shops, delicatessens.

(j) Hardware and home improvement store.

(k) Personal service salons and shops: barber and beauty shops and nail salons.

(j) Photography studio.

(k) Restaurants, including cafes, coffee shops, tea houses, and internet/computer cafes.

(2) Offices: business and professional.

(3) Miscellaneous uses, as follows:

(a) Open spaces, plazas and common greens.

(b) Shared parking facilities.

(c) Post offices.

(d) Electric and gas public utilities.

(e) Public libraries.

(f) Nursery schools and day-care/child care facilities, licensed by the state.

(4) Residential land uses, subject to (A)(1).

(5) Uses incidental to principal permitted uses, as follows.

(a) Accessory uses.

(b) Home occupations.

(c) Temporary buildings for construction purposes for a period not to exceed the duration of the construction. ('60 Code, § 6-703) (Ord. 3376, passed; Am. Ord. 3531, passed; Am. Ord. 4595 passed 11-23-71; Am. Ord. 4739, passed 12-19-72; Ord. 6246, passed 6-22-88)

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(C) In the B1-1 and B1-2 Districts, the following land uses may be allowed as special uses by the Board of Zoning Appeals in accordance with the provisions of §§ 163.020 through 163.043.

(1) Existing churches, temples or mosques or other religious houses of worship, provided their original design, purpose and use was for a house of worship and has at least 1,200 square feet of floor area and the required amount of off-street parking.

(2) Convents, monasteries, rectories, parish houses.

(3) Group living structures, institutions for the aged or for children.

(4) Marquees and canopies and sign attached thereto as regulated in § 159.05.

(5) Municipal or privately owned recreation buildings or community centers.

(6) Public utility and public uses, including the following.

(a) Public bus transit station, bus terminal, bus turnaround (off-street).

(b) Fire stations.

(c) Police stations.

(d) Railroad passenger stations.

(e) Railroad rights-of-way.

(f) Water pumping stations.

(g) Other similar public service land uses.

(14) Radio, television or telecommunication towers.

(15) Funeral parlors and undertaking establishments, with required parking facilities.

(D) The maximum floor area ratio of buildings and structures on a zoning lot shall be as follows:

(1) In a B1-1 District, the floor area ratio shall not exceed 1.5.

(2) In a B1-2 District, the floor area ratio shall not exceed 2.0. ('60 Code, § 6-705)

(E) Where a B1-1 or B1-2 District adjoins a Residence District, transitional yards shall be provided in accordance with the following regulations:

(1) In a B1-1 or B1-2 District, where a side lot line coincides with a side or rear lot line of property in an adjacent Residence District, a yard shall be provided along the side lot line. The yard shall be equal in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in the appropriate Residence District.

(2) In a B1-1 or B1-2 District, where a rear lot line coincides with a side lot line of property in an adjacent Residence District, a yard shall be provided along the rear lot line. The yard shall be equal in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in the appropriate Residence District. In addition, in a B1-1 or B1-2 District, where a rear lot line coincides with a rear lot line of property in an adjacent residence district, a yard shall be provided along the rear lot line. The yard shall be 20 feet in depth, but may begin at a height of 25 feet, or one-story above grade, whichever is lower.

(3) In a B1-1 or B1-2 District, where the extension of a front or side lot line coincides with the front lot line of an adjacent lot located in a residence district, a yard equal in depth to the minimum front yard required by this chapter on the adjacent lot in the residence district shall be

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provided along the front or side lot line for a distance of at least 25 feet, including the width of any intervening alley, from the lot in the residence district.

(4) Transitional yards shall be unobstructed from the lowest level to the sky, except as allowed in § 163.009. ('60 Code, § 6-706)

(F) In the B1-1 or B1-2 Districts, a side yard shall not be required, except for transitional yard requirements under Subsection (E).

(G) In the B1-1 or B1-2 Districts, a front yard shall not be required, except for transitional yard requirements under Subsection (E).

(H) In the B1-1 or B1-2 Districts, a rear yard shall be provided for residential uses located above the first floor, the yard to be not less than 30 feet in depth and to begin at a level no higher than that of the finished floor of the lowest residential unit. Required rear yards shall be unobstructed from the lowest level to the sky, except as allowed in § 163.009. ('60 Code, § 6-707)

(I) In a B1-1 District, for every dwelling unit established hereafter, there shall be provided a minimum of 1,200 square feet living area. However, for every efficiency dwelling unit there shall be provided not less than 800 square feet.

(J) In a B1-2 District, for every dwelling unit established hereafter there shall be provided a minimum of 1,000 square feet. However, for every efficiency dwelling unit there shall be provided not less than 800 square feet.

(K) No dwelling unit shall be established hereafter on a lot which is less than 5,000 square feet in area and 40 feet in width at the building line, provided a lot of record on the effective date of this chapter, which is less than 5,000 square feet in area or 40 feet in width may be improved with a building containing not more than two dwelling units. However, when the lot of record is less than 40 feet in width and is in the same ownership on or after the effective date of this chapter as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined as a single zoning lot for this purpose or unless further re-subdivision produces the requisite 40 feet minimum lot width.

(L) No existing land use shall be converted, altered, rehabilitated or redeveloped in such a way as to conflict with or further conflict with the minimum lot size requirements for the zoning district in which they are located. ('60 Code, § 6-708) (Ord. 3376, passed)

### **§ 163.067 \_\_ B2 GENERAL RETAIL DISTRICTS (Neighborhood Business District)**

(A) In the B2-1 to B2-3 Districts, inclusive, the conditions placed upon the land uses authorized as permitted or special use land uses in a B1 Limited Retail District shall apply unless superseded under subsections (B) and (C).

(B) In the B2-1 to B2-3 Districts, inclusive, the following land uses are authorized as permitted land uses.

(1) Any land use permitted in the B1 Limited Retail Districts, as set forth in § 163.066 (B), unless otherwise set forth or superseded hereafter.

(2) Additional retail and service establishments, as follows:

- (a) Bank Machine and automated teller machines ("ATM").
- (b) Camera and photographic supply stores.
- (c) Card and gift shops.
- (d) Clothes pressing establishments.

- (e) Garden supply and seed stores.
- (f) Gift shops.
- (g) Hobby stores, including but not limited to the collection of coins, stamps, limited edition/production goods.
- (h) Laundries and dry cleaners, automatic, self-service type or hand limited to a laundry operation of a retail nature where the work handled comes directly from the customer to the shop, and any noise, vibration, odor, or exhaust fumes shall not be transmitted beyond the zoning lot of the permitted use.
- (i) Locksmith shops.
- (j) Massage therapy salons.
- (k) Musical instrument stores, including minor repairs.
- (l) Office supply stores.
- (m) Picture framing establishments, when conducted for retail trade on the premises only.
- (n) Pet shops, sale of domestic animals and aquarium fish.
- (o) Schools, including music, dance, or business.
- (p) Shoe and hat repair stores.
- (q) Tailor shops.
- (r) Machinery sales rooms, with no repair or servicing, provided storage and display of machinery, except of household appliances and office machines such as typewriters, are restricted to new floor samples.
- (s) Schools, including music, dance, business or trade,
- (t) Ticket agencies, recreational and amusement.
- (u) Travel bureaus and transportation ticket offices.
- (v) Video and Audio sales and rental establishments.
- (w) Video arcade or video game establishments.

(C) In the B2-1 to B2-3 Districts, inclusive, the following land uses are authorized and may be allowed as special uses by the Board of Zoning Appeals in accordance with §§ 163.020 through 163.043:

- (1) Any land use authorized as a special land use in a B1 District as set forth in § 163.066 (C) that is not listed as a permitted land use under Subsection (B) above.
  - (2) Apartment buildings.
  - (3) Restaurants, including live entertainment and appropriate ABL (Alcoholic Beverage License issued by the Indiana Alcohol and Tobacco Commission).
  - (4) Automotive dependant and related retail and service establishments, subject to the following:
    - (a) An automobile service station shall not hereafter be erected except on a lot on the corner of an intersection of two streets or a lot situated on the corner where one street runs into another; the lot on which any automobile service station shall be hereafter erected shall have not less than 75 feet frontage on one street and not less than 100 feet frontage on the other street.
    - (b) No portion of any building shall be less than 30 feet from any front property line or less than 10 feet from any side or rear property line, nor shall any portion of any building be within 100 feet of a residential building.
    - (c) No gasoline pumps less than 20 feet from any front line.
    - (d) Any portion of a lot used for any automobile service station shall not be less

than 200 feet away from any public, parochial, or other school, playground, hospital, church, or public library.

- (e) There shall not be more than one access way to any one public street unless the dimensions of the lot on the street exceeds 100 feet; then two access ways may be permitted on the street.
- (f) Along any street line on which the property abuts, a protective curb which meets City specifications shall be erected, and the curb shall be continuous except for the permitted 30-foot openings for access ways.
- (g) Whenever considered necessary for the protection of adjoining properties, either to reduce disturbance from noise or to form a harmonious and aesthetic transition from other commercial uses or from adjoining residential uses, the Plan Commission may require the erection of a fence or wall of whatever height they deem necessary, along the rear and side property lines, and that the fence or wall be supplemented with suitable planting of grass, trees, or shrubbery.
- (h) Automobile service stations erected in shopping centers will not be required to follow the regulation of being placed at an intersection as so stated herein, but these stations must comply with all other subdivisions herein.
- (i) An application for a special use permit may not be made for an automobile service station if the station will be utilized for the sale principally of the products of a particular oil company, if at the time of the application the oil company has any interest, whether by lease, deed, or contract, in any vacant or non-operating auto service station or stations, unless and until the land the vacated or non-operating station is environmentally mitigated.
- (j) For the purpose of enforcing these provisions, the City Plan Commission shall have the right to call for and review any presently existing or proposed documents concerning any auto service station special use permit location, presently existing or proposed, including but not limited to deeds, options, leases, assignments, and contracts.

(D) The maximum floor area ratio of buildings and structures on a zoning lot shall be as follows:

- (1) In a B2-1 District the floor area ratio shall not exceed 1.5.
- (2) In a B2-2 District the floor area ratio shall not exceed 2.5.
- (3) In a B2-3 District the floor area ratio shall not exceed 3.5.

(E) In the B2-1 to B2-3 Districts, inclusive, the regulations governing transitional yards in the B1 Districts, as set forth in § 163.066 (E) shall apply.

(F) In the B2-1 to B2-3 Districts, inclusive, regulations governing side yards in the B1 Districts, as set forth in § 163.066 (F) shall apply.

(G) In the B2-1 to B2-3 Districts, inclusive, regulations governing front yards in the B1 Districts, as set forth in § 163.066 (G) shall apply.

(H) In the B2-1 to B2-3 Districts, inclusive, regulations governing rear yards in the B1 Districts, as set forth in § 163.066 (H) shall apply.

(I) In the B2-1 to B2-3 Districts, inclusive, regulations governing the minimum living areas in a B1-2 District, as set forth in § 163.066 (J) shall apply.

(J) An apartment building or similar multi-family dwelling unit shall not be established hereafter on a lot which is less than 7,500 square feet in area and 60 feet in width at the building line, provided a lot of record on the effective date of this chapter, which is less than 7,500 square feet in area or 60 feet in width may be improved with a building containing not more than two dwelling units. However, when the lot of record is less than 60 feet in width and is in the same ownership on or after the effective date of this chapter as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined as a single zoning lot for this purpose or unless further re-subdivision produces the requisite 60 feet minimum lot width.

(K) No existing land use shall be converted, altered, rehabilitated or redeveloped in such a way as to conflict with or further conflict with the minimum lot size requirements for the zoning district in which they are located.

**§ 163.068 B3 LIMITED SERVICE DISTRICTS (Regional Retail and Service District)**

(A) In the B3-1 and B3-2 Districts, inclusive, the conditions placed upon the land uses authorized as permitted or special use land uses in a B2 Limited Retail District shall apply unless superceded under subsections (B) and (C) or as follows:

(1) All goods produced on the premises shall be sold at retail on the premises where produced.

(2) Business and wholesale establishments classified as retail and service hereafter are restricted to a maximum gross floor area of 15,000 square feet each exclusive of any floor area devoted to off-street parking or loading facilities, except for any development established as a business mixed use development or lifestyle center development (see subsection (A)(3) below).

(3) A business mixed use development or lifestyle center development on a site in excess of 75,000 square feet shall be developed within sustainable development and/or sensible development principles and initiatives as approved by the Commission.

(4) Business and wholesale establishments classified as retail and service hereafter may include drive-through/drive-up facilities.

(5) All business, servicing, processing, or storage, except for off-street parking or loading, shall be conducted or located within completely enclosed buildings unless otherwise indicated hereafter and except when establishment's of the through/drive-up facility offer goods and service directly to customers waiting in parked motor vehicles. ('60 Code, § 6-716)

(B) In the B3-1 and B3-2 Districts, inclusive, the following land uses are authorized as permitted land uses.

(1) Any land use permitted in the B2 General Retail Districts, as set forth in § 163.067 (B), unless otherwise set forth or superseded hereafter.

(2) Additional retail and service establishments, as follows:

- (a) Antique shops, resale store, consignment store, excluding thrift shops.
- (b) Art and school supply stores.
- (c) Art Galleries.
- (d) Banquet halls.

- (e) Banks and financial institutions, including currency exchanges.
- (f) Carpet, rug, and linoleum stores.
- (g) China and glassware stores.
- (h) Employment agencies.
- (i) Furniture stores, including upholstering when conducted as part of the retail operations and secondary to the principal use.
- (j) Furrier shops, including the incidental storage and conditioning of furs.
- (k) Health/fitness center, privately owned.
- (l) Hotel and motel.
- (m) Clothing stores.
- (n) Interior decorating shops, including upholstering and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations and secondary to the principal use.
- (o) Jewelry stores, including watch repair.
- (p) Leather goods and luggage stores.
- (q) Medical and dental offices and clinics.
- (r) Movie theater, indoor.
- (s) Museum/cultural facility.
- (t) Optician shops.
- (u) Pawn shop.
- (v) Photograph developing and processing shops.
- (w) Physical culture and health services, including gymnasiums, swimming pools, reducing salons, state licensed message therapy salons.
- (x) Radio/television station.
- (y) Restaurants, including live entertainment and dancing and appropriate ABL (Alcoholic Beverage License issued by the Indiana Alcohol and Tobacco Commission).
- (z) Sewing machine stores, household machines only.
- (aa) Sporting goods stores.
- (bb) Theater (dramatic, operatic, musical, or other live theatrical performance).
- (cc) Tobacco shops.
- (dd) Toy shops.
- (ee) Trade/business/vocational educational facility or college/university.
- (ff) Transit station or terminal.
- (gg) Variety stores.
- (hh) Wineries, brew pubs, taverns, bars or night club with appropriate ABL (Alcoholic Beverage License issued by the Indiana Alcohol and Tobacco Commission).

(C) In the B3-1 and B3-2 Districts, inclusive, the following land uses are authorized and may be allowed as special uses by the Board of Zoning Appeals in accordance with §§ 163.020 through 163.043:

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- (a) Any land use authorized as a special land use in a B2 District as set forth in § 163.067 (C) that is not listed as a permitted land use under Subsection (B) above.
  - (b) Ambulance service.
  - (c) Amusement, athletic and entertainment establishments including bowling alleys, pool halls, dance halls, skating rinks, and other similar places of recreation and other amusement centers, including places of assembly devoted thereto, such as stadiums and arenas.
  - (d) Blueprinting and Photostatting establishments.
  - (e) Caskets and casket supplies.
  - (f) Catering establishments.
  - (g) Controlled substance abuse center, subject to the following:
    - a. The proposed controlled substance abuse center shall be sited on an arterial street.
    - b. The proposed location and utilization of the controlled substance abuse center may not have a detrimental effect on the privacy, quiet, and light of the surrounding or adjacent structures.
    - c. Off-street parking must be provided for. Insofar as possible off-street parking facilities shall be grouped in bays, either adjacent to the street or in the interior of blocks. No off-street parking shall be more than 100 feet by the most direct pedestrian route from the door of the controlled substance abuse center. Common parking facilities for three or more automobiles shall provide space outside the public right-of-way for maneuvering incidental to parking.
    - d. There shall be provided a minimum of one parking space per staff person in the center.
    - e. There shall be provided a minimum of five parking spaces per individual practitioner in the center.
    - f. Off-street parking and loading areas and the entrance and exits of these areas will be adequate in terms of location, design, and construction to serve the use of a controlled substance abuse center.
    - g. In the event the structure or premises occupied by a controlled substance abuse center becomes and remains vacant for a continuous period of six months or more, the use of the same shall thereafter conform to the use regulations of the adjacent zoning in which the structure or premises is located.
    - h. No controlled substance abuse center shall be enlarged, extended, reconstructed, or structurally altered, unless such use is changed to a use which conforms to the use regulation of the adjacent zoning; providing, however, that a structure or premises may be physically enlarged, extended, reconstructed, or structurally altered to the extent necessary for compliance with any existing and applicable law or ordinance specifying minimum standards of health or safety.
    - i. The vehicular traffic may neither hinder the general traffic flow nor endanger pedestrian traffic.
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- j. Any used or emptied container or vial that has previously contained or encapsulated a controlled substance is to be retrieved and crushed. The crushed matter is then to be properly disposed of in accordance with state laws and environmentally acceptable procedures.
- k. All exterior garbage containers, trash bin area, or other outside storage areas shall be screened by an opaque enclosure of not less than 5 feet in height.
- l. In approving a special use permit for the operation of a controller substance abuse center, the Plan Commission may impose such reasonable restrictions and conditions as in its opinion will accomplish the intent of the Code of Ordinances. ('60 Code, § 6-704) (Ord. 3376, passed; Am. Ord. 3937, passed; Am. Ord. 4152, passed; Am. Ord. 4669, passed 7-11-72; Am. Ord. 5891, passed 2-1-83; Am. Ord. 5965, passed 2-7-84; Am Ord. 6628, passed 9-1-92)
- (h) Exterminating shops.
- (i) Greenhouses (retail only).
- (j) Laboratories, medical, dental, research, and testing.
- (k) Microbrewery.
- (l) Orthopedic, medical, and surgical appliance stores, not including the assembly or manufacture of these article.
- (m) Plumbing showrooms, retail and wholesale establishments.
- (n) Blueprinting and photostatting establishments, including printing establishments for letter press, business cards, mimeographing, and other similar custom printing services.

(D) Definitions. For the purpose of this chapter, the following definitions shall apply.

1. "CONTROLLED SUBSTANCE." Any and all substances listed, and amended to include, in the Indiana Uniform Controlled Substance Act Schedules I through V; to include, while not being limited to:
  - (a) Each of the opiates, opium derivatives, or hallucinogenic substances, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation;
  - (b) Substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or a combination of extraction and chemical synthesis; and
  - (c) Opium, including raw opium, opium extracts, opium fluid extracts, powdered opium, granulated opium, deodorized opium, and tincture of opium.
2. "CONTROLLED SUBSTANCE ABUSE CENTER." A center which is operated by either an individual practitioner, institutional practitioner, or person (other than an individual) where the primary function of the center is to provide, through the dispensing of detoxification substances, for the detoxifying of individuals who are abusers of controlled substances.



3. "DISPENSING." Issuance of one or more doses of a drug or substance.
4. "INDIVIDUAL PRACTITIONER." A physician or other individual licensed, registered, or otherwise permitted by the state or the United States, to dispense a controlled substance in the course of professional practice, but does not include a pharmacist, a pharmacy, or an institutional practitioner.
5. "INSTITUTIONAL PRACTITIONER." A hospital or other person (other than an individual) licensed, registered, or otherwise permitted by the state or the United States, to dispense a controlled substance in the course of practice, but does not include a pharmacy.
6. "PERSON." Any individual, corporation, government, or governmental subdivision or agency, business, trust, partnership, association, or other legal entity.
7. "SUBSTANCE." Any chemical compound recognized in the official United States Pharmacopoeia, official National Formulary, official Homopathic Pharmacopoeia of the United States, or any supplement to any of them drugs intended for use in the treatment of people.
8. "SUBSTANCE ABUSE." Psychological or physical dependence on the effects of drugs or substances or such abuse of the use of drug. or substances as is harmful to the individual or society.
9. "SUBSTANCE ABUSER." Any person who has developed a psychological or physical dependence on the effects of drugs or substances, or any person's usage of drugs or substances so that the person or society is harmed.

(E) The maximum floor area ratio of buildings and structures on a zoning lot shall be as follows:

- (1) In a B3-1 District, the floor area ratio shall not exceed 1.5.
- (2) In a B3-2 District, the floor area ratio shall not exceed 2.5.

(F) In the B3-1 to B3-2 Districts, inclusive, the regulations governing transitional yards in the B2 Districts, as set forth in § 163.067(E) shall apply.

(G) In the B3-1 to B3-2 Districts, inclusive, regulations governing side yards in the B2 Districts, as set forth in § 163.067(F) shall apply.

(H) In the B3-1 to B3-2 Districts, inclusive, regulations governing front yards in the B2 Districts, as set forth in § 163.067(G) shall apply.

(I) In the B3-1 to B3-2 Districts, inclusive, regulations governing rear yards in the B2 Districts, as set forth in § 163.067(H) shall apply.

(J) In the B2-1 to B2-3 Districts, inclusive, regulations governing the minimum living areas in a B2-3 District, as set forth in § 163.067(J) shall apply.

(K) An apartment building or multi-family dwelling unit shall not be established hereafter on a lot which is less than 10,000 square feet in area and 75 feet in width at the building line, provided a lot of record on the effective date of this chapter, which is less than 10,000 square feet in area or 75 feet in width may be improved with a building containing not more than two dwelling units. However, when the lot of record is less than 60 feet in width and is in the same ownership on or after the effective date of this chapter

as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined as a single zoning lot for this purpose or unless further re-subdivision produces the requisite 75 feet minimum lot width.

(L) No existing land use shall be converted, altered, rehabilitated or redeveloped in such a way as to conflict with or further conflict with the minimum lot size requirements for the zoning district in which they are located.

**§ 163.069 \_\_ B4 GENERAL SERVICE DISTRICTS.**

(A) In the B4-1 to B4-3 Districts, inclusive, the conditions placed upon the land uses authorized as permitted or special use land uses in a B3 Limited Service District shall apply unless superseded under subsections (B) and (C) as follows:

(1) Dwelling units that are part of or located in a hotel or motel development are permitted below the second floor.

(2) All business, servicing, processing, or storage shall be conducted or located within completely enclosed buildings unless otherwise indicated hereafter, and except when establishments of the drive-through/drive-up facility offer goods and services directly to customers waiting in parked or standing motor vehicles. However, off-street loading facilities and off-street parking of motor vehicles under a 3.25 ton curb weight, but not for sale or display purposes, may be unenclosed, except for the screening of off-street parking and loading facilities as may be required under the provisions of §§ 163.100 through 163.113. ('60 Code, § 6-723)

(B) In the B4-1 to B4-3 Districts, inclusive, the following land uses are authorized as permitted land uses:

(1) Any land use permitted in the B3 Limited Service District, as set forth in § 163.068(B), unless otherwise set forth or superseded hereafter.

(2) Additional retail and service establishments, as follows:

- (a) Ambulance service.
- (b) Amusement, athletic and entertainment establishments including bowling alleys, pool halls, dance halls, skating rinks, and other similar places of recreation and other amusement centers, including places of assembly devoted thereto, such as stadiums and arenas.
- (c) Animal grooming service.
- (d) Animal clinic, veterinary clinic, not including animal kennel or boarding other than for pre- and post-clinical procedures or care.
- (e) Blueprinting and Photostatting establishments, including printing establishments for letter press, business cards, mimeographing, and other similar custom printing services.
- (f) Catering establishments.
- (g) Data processing facility, less than 10,000 square feet and not be located on the ground floor within 50 feet of any street.
- (h) Greenhouses.
- (i) Laboratories, including medical, dental, research, and testing not be located on the ground floor within 50 feet of any street.
- (j) Newspaper printing and publishing.
- (k) Orthopedic, medical, and surgical appliance stores, not including the

assembly or manufacture of these articles.

- (l) Plumbing showrooms, retail and wholesale establishments.
- (m) Restricted production and repair, limited to art needlework and hand weaving, clothing, custom manufacturing and alterations, for retail only; jewelry from precious metal; watches; dentures; and optical lenses.
- (n) Wholesale establishments, provided that storage is limited to samples only, not be located on the ground floor within 50 feet of any street.
- (o) Vehicle emission testing facility.

(C) In the B4-1 to B4-3 Districts, inclusive, the following land uses are authorized and may be allowed as special uses by the Board of Zoning Appeals in accordance with the provisions of §§ 163.020 through 163.043.

(1) Any land use authorized as a special land use in a B3 Limited Business District, as set forth in § 163.068(C) that is not listed as a permitted land use under Subsection (B) above, except for controlled substance abuse centers.

(2) Advertising signs (billboards). ('60 Code, § 6-725) (Am. Ord. 5965 passed 2-7-84)

(3) Planned development, business.

(D) The maximum floor area ratio of buildings and structures on a zoning lot shall as follows:

(1) In a B4-1 District, the floor area ratio shall not exceed 2.0.

(2) In a B4-2 District, the floor area ratio shall not exceed 3.5.

(3) In a B4-3 District, the floor area ratio shall not exceed 4.0. ('60 Code, § 6-726)

(E) In the B4-1 to B4-3 Districts, inclusive, the regulations governing transitional yards in the B3 Districts, as set forth in § 163.068(F) shall apply.

(F) In the B4-1 to B4-3 Districts, inclusive, regulations governing side yards in the B3 Districts, as set forth in § 163.068(G) shall apply.

(G) In the B4-1 to B4-3 Districts, inclusive, regulations governing front yards in the B3 Districts, as set forth in § 163.068(H) shall apply.

(H) In the B4-1 to B4-3 Districts, inclusive, regulations governing rear yards in the B3 Districts, as set forth in § 163.068(I) shall apply.

(I) No existing land use shall be converted, altered, rehabilitated or redeveloped in such a way as to conflict with or further conflict with the minimum lot size requirements for the zoning district in which they are located.

#### **§163.070\_\_ B5 WHOLESALE AND MOTOR VEHICLE DISTRICTS.**

(A) In the B5-1 and B5-2 Districts, inclusive, the conditions placed upon the land uses authorized as permitted or special use land uses in a B4 General Service District shall apply unless superseded under subsections (B) and (C) as follows:

(1) Not more than 6,250 square feet in the aggregate of gross floor area per establishment, shall be devoted to the production or processing of goods or products.

(2) Wholesale offices and storerooms, with storage limited to the following:

- (a) In a B5-1 District, 6,250 square feet of floor area per business establishment.
- (b) In a B5-2 District, 9,375 square feet of floor area per business establishment.

(3) All activities involving the production, processing, cleaning, servicing, testing, or repair of material, goods, or products shall conform with the performance standards established for the M1 Manufacturing District in § 163.081.

(4) All production, processing, cleaning, servicing, testing, or repair of materials, goods, or products shall take place within completely enclosed buildings unless otherwise indicated hereafter. Storage of fuel, ice, building materials, and all other storage, except of merchandise on display for sale to the general public and except for parked motor vehicles, shall take place within completely enclosed buildings. ('60 Code, § 6-730)

(B) In the B5-1 and B5-2 Districts, the following land uses are authorized as permitted land uses:

(1) Any use permitted in the B4 Districts, as set forth in § 163.069(B)(2), unless otherwise set forth or superseded hereinafter.

(2) Additional retail, service and wholesale land uses, as follows:

- (a) Animal hospitals and kennels, provided all facilities for the care and boarding of animals within completely enclosed buildings.
- (b) Automotive dependant and related retail and service establishments, subject to the conditions under §163.067(C)(4).
- (c) Bakeries, wholesale.
- (d) Beverages, non-alcoholic, bottling, and distributing.
- (e) Building materials, sales.
- (f) Contractor or construction shops and offices, such as building; electrical; roofing; refrigeration; heating, cooling and ventilating; masonry, painting, and plumbing.
- (g) Dry-cleaning and laundry facilities establishments, with processing within the building limited to 6,250 square feet of gross floor area.
- (h) Linen, towel, diaper, and other similar supply services.
- (i) Machinery sales.
- (j) Monument (cemetery) sales.
- (k) Motorcycle sales, including servicing and repair.
- (l) Repair of household or office machinery or equipment.
- (m) Trailers for motor vehicles, sales and rentals, not including house trailer or mobile homes.
- (n) Garages, model display and sales.

(3) Additional production and processing, limited to the following land uses:

- (a) Advertising displays.
  - (b) Art needlework and hand weaving.
  - (c) Awnings, venetian blinds, window shades.
  - (d) Books, hand binding and tooling.
  - (e) Carpenter shops for custom woodworking and custom furniture making.
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- (f) Clothing, custom manufacturing and alterations, for retail only.
  - (g) Cosmetics, drugs, and perfumes.
  - (h) Dentures.
  - (i) Food processing, packaging, and distributing, except meat and fish.
  - (j) Glass cutting and glazing.
  - (k) Jewelry from precious metals and including watches.
  - (l) Optical lenses.
  - (m) Printing, commercial, including engraving and photo-engraving, limited to 6,250 square feet of floor area per establishment for production purposes.
  - (n) Products from the following finished materials: plastic, bone, cork, felt, feathers, fiber, fur, glass, hair, horn, leather, paper, precious and semi-precious stones, rubber, shell, or yarn.
  - (o) Soldering and welding.
  - (p) Tool, die, and pattern-making, limited to 6,250 square feet of floor area per establishment.
- (4) Miscellaneous land uses as follows:
- (a) Shared parking facilities, off-street parking lots and parking garage facilities, other than accessory, for the storage of passenger motor vehicles less than 3.5 tons in curb weight but not truck trailers, and subject to the provisions of §§ 163.100 through 163.113.
  - (b) Packing and crating.

(C) In the B5-1 and B5-2 Districts, inclusive, the following land uses are authorized and may be allowed as special uses by the Board of Zoning Appeals in accordance with the provisions of §§ 163.020 through 163.043.

- (1) Any land use authorized as a special land use in a B4 General Service District, as set forth in § 163.069(C) that is not listed as a permitted land use under Subsection (B) above, except for controlled substance abuse centers.
- (2) House trailer sales.
- (3) Motor vehicles sales, including servicing and minor repairs for vehicles under 1-1/2 ton capacity, but not major repairs. ('60 Code, § 6-732) (Ord. 3376, passed; Am. Ord. 4448, passed; Am. Ord. 5222, passed 11-23-76; Am. Ord. 5965, passed 2-7-84)

(D) The maximum floor area ratio of buildings and structures of a zoning lot shall be as follows:

- (1) In a B5-1 District, the floor area ratio shall not exceed 2.5.
  - (2) In a B5-2 District, the floor area ratio shall not exceed 3.5. ('60 Code, § 6-733)
  - (3) In the B5-1 and B5-2 Districts, inclusive, the regulations governing transitional yards in the B4 Districts, as set forth in § 163.069(E) shall apply.
  - (4) In the B5-1 and B5-2 Districts, inclusive, regulations governing side yards in the B4 Districts, as set forth in § 163.069(F) shall apply.
  - (5) In the B5-1 and B5-2 Districts, inclusive, regulations governing front yards in the B4 Districts, as set forth in § 163.069(G) shall apply.
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(6) In the B5-1 and B5-2 Districts, inclusive, regulations governing rear yards in the B4 Districts, as set forth in § 163.069(H) shall apply.

(7) No existing land use shall be converted, altered, rehabilitated or redeveloped in such a way as to conflict with or further conflict with the minimum lot size requirements for the zoning district in which they are located.

## **MANUFACTURING DISTRICTS**

### **§ 163.080 \_\_ APPLICABLE REGULATIONS.**

Use and bulk regulations applying specifically to manufacturing zoning districts are set forth in this subchapter. Also applying to manufacturing districts are additional regulations set forth in other chapters of this Ordinance, as follows.

- (A) Chapter 159 (Signs and Billboards).
- (B) §§ 163.001 through 163.015 (General Provisions).
- (C) §§ 163.020 through 163.024 (Administration).
- (D) §§ 163.030 through 163.033 (Variances).
- (E) §§ 163.040 through 163.043 (Amendments and Special Uses).

### **§ 163.081 \_\_ MI LIMITED MANUFACTURING DISTRICTS.**

(A) The following conditions shall be placed upon the land uses authorized as permitted or special use land uses in the M1 Limited Manufacturing District:

(1) Any production, processing, cleaning, servicing, testing, repair, or storage of goods, materials, or products shall conform with the performance standards set forth in subsections (D) through (K) of this section.

(2) All business, production, servicing, and processing shall take place within completely enclosed buildings unless otherwise specified. Within 150 feet of a residence district, all storage shall be in completely enclosed buildings or structures, and storage located elsewhere in this district may be open to the sky but shall be enclosed by solid walls or fences, including solid doors or gates thereto, at least 8 feet high, but in no case lower in height than the enclosed storage, and suitably landscaped. However, open off-street loading facilities and open off-street parking of motor vehicles under a 3.5 ton capacity may be unenclosed throughout the district, except for screening of parking and loading facilities that may be required under the provisions of §§ 163.100 through 163.113. ('60 Code, § 6-802)

(B) The following land uses are authorized as permitted uses:

(1) Retail and service uses, as follows:

(a) Any use permitted in a business district, excluding all residential dwelling units (including hotels and motels), churches; schools; public auditoriums; open air assembly units; amusement places of any kind.

(b) Automotive dependant and related retail and service establishments, subject to the conditions under §163.067(C)(4), including fuel sales, with storage of fuel oils, gasoline, and other flammable products limited to 120,000 gallons per tank, with total

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storage on one zoning lot not to exceed 500,000 gallons.

- (c) Business incubator facility.
- (d) Engineering professional office and service establishments.
- (e) Ice sales, linen, towel, diaper, and other similar supply services.
- (f) Self-storage facilities.
- (g) Tattoo and body piercing establishments, licensed by the state.
- (h) Trade schools and colleges.

(2) Production, processing, cleaning, testing, or repair, limited to the following land uses and products.

- (a) Advertising displays.
  - (b) Art needlework and hand weaving.
  - (c) Awnings, venetian blinds.
  - (d) Bakeries.
  - (e) Beverages, non-alcoholic.
  - (f) Boat-building and repair of pleasure craft and other small craft, but not including shipbuilding or ship repair.
  - (g) Books, hand binding, and tooling.
  - (h) Bottling works, beverage.
  - (i) Brushes and brooms.
  - (j) Cameras and other photographic equipment and supplies.
  - (k) Canvas and canvas products.
  - (l) Ceramic products such as pottery and small glazed tile.
  - (m) Clothing.
  - (n) Cosmetics and toiletries.
  - (o) Dentures.
  - (p) Drugs.
  - (q) Dry-cleaning establishments.
  - (r) Electric appliances.
  - (s) Electrical equipment assembly such as home radio and television receivers and home movie equipment, but not including electrical machinery.
  - (t) Manufacturing and assembly of electrical supplies, such as wire and cable assembly, switches, lamps, insulation, and dry cell batteries.
  - (u) Processing and combining of food products except meat and fish, baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing, and pressings.
  - (v) Fur goods, not including tanning or dyeing.
  - (w) Glass products from previously manufactured glass.
  - (x) Hair, felt, and feather products, except washing, curling, and dyeing.
  - (y) Hat bodies of fur and wool felt.
  - (z) Hosiery.
  - (aa) House trailers.
  - (bb) Ice, dry and natural.
  - (cc) Industrial incubator facility.
  - (dd) Industrial research facility.
  - (ee) Ink mixing and packaging, and inked ribbons.
  - (ff) Jewelry.
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- (gg) Laboratories, medical, dental, research, experimental, and testing, provided there is no danger from fire or explosion or of offensive noise, vibration, smoke, dust, odors, heat, glare, or other objectionable influences.
  - (hh) Laundries, dry-cleaning facility.
  - (ii) Leather products, including shoes and machine belting.
  - (jj) Luggage.
  - (kk) Machine shops for tool, die, and pattern making.
  - (ll) Meat products.
  - (mm) Metal finishing, plating, grinding, sharpening, polishing, cleaning, rustproofing, and heat treatment.
  - (nn) Metal stamping and extrusion of small products such as costume jewelry, pins and needles, razor blades, bottle caps, buttons, and kitchen utensils.
  - (oo) Microbrewery.
  - (pp) Musical instruments.
  - (qq) Orthopedic and medical appliances such as artificial limbs, braces, supports, and stretchers.
  - (rr) Small paper products, such as envelopes and stationery, bags, boxes, tubes, and wallpaper printing.
  - (ss) Perfumes and perfumed soaps, compounding only.
  - (tt) Pharmaceutical products, compounding only.
  - (uu) Precision instruments such as optical, medical, and drafting.
  - (vv) Products from finished materials, including plastic, bone, cork, feathers, felt, fiber, paper, fur, glass, hair, horn, leather, precious and semi-precious stones, rubber, shell, or yarn.
  - (ww) Printing and newspaper publishing, including engraving and photo-engraving.
  - (xx) Small rubber products, and synthetic treated fabrics, excluding all rubber and synthetic processing, such as washers, gloves, footwear, bathing caps, and atomizers.
  - (yy) Repair of household or office equipment.
  - (zz) Silverware, plate and sterling.
  - (aaa) Soap and detergents, packaging only.
  - (bbb) Soldering and welding.
  - (ccc) Sporting and athletic equipment such as balls, baskets, cues, gloves, bats, racquets, and rods.
  - (ddd) Statuary, mannequins, figurines, and religious and church art goods, excluding foundry operations.
  - (eee) Textiles, including spinning, weaving, manufacturing, dyeing, printing, knit goods, yarn, thread and cordage, but not including textile bleaching.
  - (fff) Tools and hardware such as bolts, nuts and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks, non-ferrous metal castings, and plumbing appliances.
  - (ggg) Toys.
  - (hhh) Umbrellas.
  - (iii) Bulk upholstery, including mattress manufacturing, rebuilding, and
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- renovating.
  - (jjj) Vehicles - children's, such as: bicycles, scooters, wagons, and baby carriages.
  - (kkk) Wood products, such as furniture, boxes, crates, baskets, pencils, and cooperage works.
  - (3) Wholesale and warehousing:
    - (a) Local and regional distribution and logistics facilities, including express facilities, but not including motor freight terminals.
    - (b) Electronic data storage facilities.
  - (4) Public and community service land uses, as follows.
    - (a) Bus garages, bus lots, street railway terminals, or transportation orientated maintenance facilities.
    - (b) Electric and gas public utilities.
    - (c) Fire stations.
    - (d) Water filtration plants.
    - (e) Water pumping stations.
    - (f) Bus and railroad passenger stations or terminals.
    - (g) Railroad rights-of-way.
    - (h) Post office transfer facilities, including other similar package transfer facilities.
    - (i) Vehicle emission testing facilities for passenger vehicles.
  - (5) Miscellaneous land uses ancillary but acceptable within the M1 District, as follows:
    - (a) Cellular, radio, television, satellite or cable transmission/reception towers.
    - (b) Above ground water storage tank.
    - (c) Signs, as regulated by Chapter 159.
  - (6) Uses incidental to principal permitted land uses, as follows:
    - (a) Accessory uses.
    - (b) Temporary buildings for construction purposes, for a period not to exceed the duration of the construction. ('60 Code, § 6-803) (Ord. 3376, passed; Am. Ord. 3984, passed; Am. Ord. 3992, passed; Am. Ord. 5222, passed 11-23-76; Am Ord. 5965, passed 2-7-84)
  - (7) In the B1-1 and B1-2 Districts, the following land uses may be allowed as special uses by the Board of Zoning Appeals in accordance with the provisions of §§ 163.020 through 163.043.
    - (a) Establishments engaged in production, processing, cleaning, testing, or repair other than those listed as permitted in the M1 Districts, including the following:
      - 1. Insecticides.
      - 2. Food Processing/canning/preparation.
      - 3. Welding shop.
    - (b) Adult sexually-orientated businesses.
    - (c) Railroad switching and classification yards, repair shops and roundhouses.
    - (d) Truck sales and service facilities, including fueling facilities, provided the following requirements are met:
      - 1. No motor freight facility shall be erected except on a lot with more than a 200-foot frontage.
      - 2. The minimum area for such facilities shall be 40,000 square feet.
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3. There shall be separate ingress and egress to the property with minimum distance between the two of 100 feet with adequate traffic control in conformance with all local and state agency requirements.
4. All curb cuts shall be at least 40 feet in width and with protective curbs, and landscaping shall be erected along any street line. The curb shall be contiguous except for the permitted opening.
5. There shall be minimum 15-foot vegetative buffer zone along all sides of the property other than the frontage.
6. A performance bond shall be provided equal in dollar amount to the overall square footage of the proposed parcel to insure compliance with the requirements set forth herein. ('60 Code, § 6-804) (Ord. 3376, passed; Am. Ord. 4055, passed; Am. Ord. 4386, passed; Am. Ord. 5222, passed 11-23-76; Am Ord. 5965, passed 2-7-84; Am. Ord. 6221, passed 12-22-87; Am. Ord. 6236, passed 4-5-88)

(C) Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter.

(1) Impulsive type noises shall be subject to the performance standards hereafter prescribed, provided the noises are capable of being accurately measured with that equipment. Noises capable of being so measured, for the purpose of this section, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noises incapable of being so measured, such as those of an irregular and intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

(2) At no point either on the boundary of a Residence District or a B1, B2, B3, or B4 District, or at 125 feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of an individual operation or plant, other than the operation of motor vehicles and other transportation facilities, exceed the decibel levels at the designated octave bands shown hereafter for the districts indicated. Maximum permitted sound level in decibels along district boundaries or 125 feet from plant or operation property line are as follows.

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Octave Band Cycles Per Residence	District (in Business District (in
Second decibels)	decibels)
0-75	67 73
75-150	62 68
150-300	58 64
300-600	54 60
600-1200	49 55
1200-2400	45 51
2400-4800	41 47
Above 4800	37 43

('60 Code, § 6-805)

(D) In the M1-1 and M1-2 Districts, the emission of noxious odorous matter in such quantities as to produce a public nuisance beyond the property boundaries is prohibited. ('60 Code, § 6-806)

(E) In the M1-1 and M1-2 Districts, any process or equipment which produces intense earth-shaking vibrations, such as are created by heavy drop forges or heavy hydraulic surges, shall be set back at least 500 feet from the property boundaries on all sides, except for a property line adjoining an M2 or M3 District where this setback shall not be mandatory. However, in no case shall vibrations be allowed to create a public nuisance or hazard beyond the property boundaries. ('60 Code, § 6-807)

(F) In the M1-1 and M1-2 Districts, a land use on any property shall not discharge across the boundaries of the property toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare or cause injury or damage to other property or business. ('60 Code, § 6-808)

(G) In the M1-1 and M1-2 Districts,

- (1) Any operation producing intense glare or heat shall be performed within a completely enclosed building and effectively screened in such a manner as not to create a public nuisance or hazard along property boundaries. ('60 Code, § 6-809)
- (2) In the M1 District, no use is permitted which violates any local, state or federal pollution control law or regulation.
- (3) In the M1 District, no use is permitted in the treatment, storage and disposal of toxic or infectious materials.

(H) In the M1-1 and M1-2 Districts, fire and explosive hazards shall be controlled as follows:

(1) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in the M1 Districts. A list of such explosives is contained in § 163.012.

(2) The storage, utilization, or manufacture of materials ranging from incombustible to moderate burning, as determined by the Director of the Department of Development and Planning, is permitted.

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(3) The storage, utilization, or manufacture of materials or products ranging from free or active burning to intense burning, as determined by the Director, is permitted under the following conditions:

(a) All storage, utilization, or manufacture of such materials or products shall be within completely enclosed buildings or structures having incombustible exterior walls.

(b) All buildings or structures shall be set back at least 50 feet from property boundaries or, in lieu thereof, shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.

(4) Materials or products which produce flammable or explosive vapors or gases under ordinary weather temperatures shall not be permitted in this District, with the exception of the following, which are permitted:

(a) Materials required for emergency or standby equipment.

(b) Materials used in secondary processes which are auxiliary to a principal operation, such as paint-spraying of finished products.

(c) Flammable liquids and oils stored, sold, and used in conjunction with the operation of an automobile service station and customarily required or used in that operation. ('60 Code, § 6-810)

(I) The maximum floor area ratio of buildings and structures on a zoning lot shall be as follows:

(1) In an M1-1 District, the floor area ratio shall not exceed 1.0.

(2) In an M1-2 District, the floor area ratio shall not exceed 1.5

(K) In the M1-1 and M1-2 Districts, on every zoning lot a front yard of not less than 25 feet in depth shall be provided.

(L) In the M1-1 and M1-2 Districts, on every zoning lot a side yard shall be provided along each side lot line. Each side yard shall be not less in width than 10% of the lot width but need not exceed 20 feet in width, except as may be required for setbacks along residence district boundaries under the terms of § 163.081 (M). ('60 Code, § 6-813)

(M) A planned industrial park is an industrial subdivision developed according to a comprehensive plan to provide serviced sites for manufacturing plants, distribution warehouses, and similar uses. The district must provide for adequate control of the tract and buildings, through restrictive covenants or adequate zoning, with a view to maintaining aesthetic values and protecting the investments of both developers of the district and the industries occupying the improved sites.

(1) This District is intended to be used as a buffer for light and heavy industrial areas between residential and commercial areas, or in locations which are served by major thoroughfares, but are not feasible for light and heavy industrial developments because of the proximity to residential and other uses, which require a controlled type of industrial use. For this reason, development is limited to a low concentration of land use, and permitted uses are confined to those administrative, wholesaling, and manufacturing activities that can be carried on in an unobtrusive manner and to certain facilities that are necessary to serve employees of the District.

(2) Any land use permitted in this subchapter is permitted in this District.

(3) The minimum area for a planned industrial park shall not be less than 25 acres. No lot shall have an area of less than one acre or 43,560 square feet, or a width of less

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than 140 feet. Lots may be re-subdivided only with the approval of the City Plan Commission.

- (a) The floor area ratio shall be determined by the District in which the park is located.
  - (b) All buildings, including accessory building and outdoor storage facilities, shall not occupy more than 40% of the lot.
  - (c) There shall be a front yard provided on each lot. The depth of the front yard shall be determined by the City Plan Commission. No parking or paving except for access roads and walks, shall be permitted within any portion of the minimum required front yard.
  - (d) There shall be two side yards on each lot, neither of which shall be less than 25 feet in width, nor shall any side yard abutting upon a street be less than the required front yard as determined by the City Plan Commission. No parking or paving, except for access roads and walks, shall be permitted within any portion of the minimum side yards abutting a street; however, parking shall be permitted within side yards not abutting a street.
  - (e) Requirements governing rear yards shall be determined by uses and plans.
  - (f) Outside storage shall be permitted only in rear yards when accessory to a permitted land use and appropriately screened. All areas used for storage shall be enclosed on all sides by a masonry wall or solid fence not less than 6 feet in height. No materials or products shall be stacked or stored to exceed the height of the wall.
  - (g) All open portions of any lot shall be suitably paved and maintained in a dust-free condition. All other open areas shall, as a minimum, be seeded and maintained in grass and preferably be further landscaped with trees, shrubs, ground cover, and the like so as to provide a park-like setting for the buildings and to screen parking and loading areas.
  - (h) All lighting used to illuminate entrances, exits, service roads, parking aisles, parking areas, or buildings must be so arranged or shielded as to avoid glare or reflection into any portion of an adjacent street, into the path of oncoming vehicles, or onto any abutting property.
  - (i) One off-street parking or shared parking facility spaces shall be provided for each two employees on a major shift, plus one parking space for each sales person permanently employed. A required off-street parking space shall be at least 10 feet in width and at least 20 feet in length. All open off-street parking areas shall be improved with an all-weather, dust-less, paved asphalt or concrete pervious surface. No portion of a paved area for that purpose shall project into any minimum required front yard or into any portion of a side or rear yard in which paving is prohibited.
  - (j) All required loading berths shall be located on the same zoning lot as the use served. Each required loading berth shall be at least 10 feet in width and at least 25 feet in length, and shall have a vertical clearance of at least 14 feet. The number of required loading berths will be determined by proposed use and this determination will be made by the City Plan Commission.
  - (k) One free-standing identification sign, identifying the name of the industrial park and the business within the park is permitted. The area of the sign shall not exceed 80 square feet nor shall the sign be more than 25 feet in height. The sign may be a wall sign or free-standing. No sign shall be located nearer than 25 feet from the front property line. Each industry or business within the industrial park is permitted one wall
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sign; this sign shall not project more than 18 inches from the face of the building or wall to which it is attached. In lieu of a wall sign, one free-standing sign not more than 40 square feet or more than 15 feet in height may be erected on each business site.

(l) In an industrial park, performance standards shall conform to those performance standards set forth in § 163.081 (C), (D), (E), (F), (G), and (H).

(m) A site plan showing location of buildings, streets, utilities, building lines, suitable arrangements of off-street or shared facility parking, loading spaces, sufficient space for maneuvering, and adequate access to land from the public right-of-way, shall be submitted to the City Plan Commission for final approval. Also, a site plan shall be provided for each lot within the park and any changes in the original plan must also be reviewed and approved by the City Plan Commission. ('60 Code, § 6-814) (Ord. 3376, passed; Am. Ord. 4377, passed) Penalty, see § 163.999

### **§163.082\_\_\_ M2 GENERAL MANUFACTURING DISTRICTS.**

(A) The following conditions shall be placed upon the land uses authorized as permitted or special use land uses in the M2 General Manufacturing District:

(1) All production, processing, cleaning, servicing, testing, repair, or storage of goods, materials, or products shall conform with the performance standards set forth in this section.

(2) Within 150 feet of a Residence District, all business, production, servicing, processing, and storage shall take place or be within completely enclosed buildings unless otherwise specified. However, within 150 feet of a Residence District, off-street loading facilities and off-street or shared parking of motor vehicles under 3.5 ton capacity may be unenclosed, except for the screening of parking and loading facilities that may be required under the provisions of §§ 163.100 through 163.113. ('60 Code, § 6-815)

(B) The following uses are permitted.

(1) Any land use permitted in the M1 District, except those retail and service land uses specifically enumerated under § 163.081(B)(1)(a), unless otherwise set forth or superseded hereafter.

(2) Automotive dependant and related retail and service establishments, subject to the conditions under § 163.067(C)(4), including fuel sales, with storage of fuel oils, gasoline, and other flammable products limited to 120,000 gallons per tank, with total storage on one zoning lot not to exceed 500,000 gallons, provided that within 150 feet of a residence district, lubrication and washing facilities, including auto laundries, shall be in a completely enclosed building. The retail sale of gasoline and motor oil, including minor services customarily incidental hereto, may be conducted out-of-doors.

(3) Truck sales and service facilities, including fueling facilities, provided the following requirements are met:

1. No motor freight facility shall be erected except on a lot with more than a 200-foot frontage.
2. The minimum area for such facilities shall be 40,000 square feet.
3. There shall be separate ingress and egress to the property with minimum distance between the two of 100 feet with adequate traffic control in conformance with all local and state agency requirements.
4. All curb cuts shall be at least 40 feet in width and with protective curbs, and landscaping shall be erected along any street line. The curb shall be contiguous except for the permitted opening.

5. There shall be minimum 15-foot vegetative buffer zone along all sides of the property other than the frontage.
6. A performance bond shall be provided equal in dollar amount to the overall square footage of the proposed parcel to insure compliance with the requirements set forth herein.

(4) Any production, processing, cleaning, servicing, testing, repair, or storage of materials, goods, or products which conforms to the performance standards for this district set forth in this section (refer to City environmental ordinances 7394 and 7641 which restrict toxic substances and potential polluting substances).

(C) In the M2-1 and M2-2 Districts, the following land uses may be allowed as special uses by the Board of Zoning Appeals in accordance with the provisions of §§ 163.020 through 163.043.

(1) Any use which may be allowed as a special uses in the M1 Districts, unless already permitted as a land use under § 163.082.

(2) Junk yards or salvage yards.

(3) Sewage disposal plants, including primary and/or secondary sewage treatment facilities and advanced sewage treatment facilities.

(4) Water treatment/purification facilities.

(5) Storage of flammable liquids. ('60 Code, § 6-817)( Am. Ord. 5965, passed 2-7-84)

(D) In the M2-1 and M2-1 Districts, the emission of noise from any individual operation or plant, other than the operation of motor vehicles and other transportation facilities, so as to create a public nuisance beyond property boundaries is prohibited. ('60 Code, § 6-818)

(E) In the M2-1 and M2-2 Districts, the performance standards governing odorous matter in the M1 Districts shall apply. ('60 Code, § 6-819)

(F) In the M2-1 and M2-2 Districts, any process or equipment which produces intense earth-shaking vibrations, such as are created by heavy drop forges or heavy hydraulic surges, shall be set back at least 300 feet from the boundary of a Residence or Business District and at least 150 feet from the boundary of a M1 District, unless the operation is controlled in such a manner as to prevent transmission beyond property boundaries of earth-shaking vibrations perceptible without the aid of instruments. ('60 Code, § 6-820)

(G) In the M2-1 and M2-2 Districts,

(1) A land use on any property shall not discharge across the boundaries of that property toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to other property or business. ('60 Code, § 6-821);

(2) In the M2 District, no use is permitted in the treatment, storage and disposal of toxic or infectious materials.

(3) In the M2 District, no use is permitted in the treatment, storage and disposal of toxic or infectious material without obtaining a special exception under § 163.033.

(H) In the M2-1 and M2-2 Districts, any operation producing intense glare or heat shall be performed within an enclosure and effectively screened in such a manner as not to create a public

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nuisance or hazard along property boundaries. ('60 Code, § 6-822)

(I) In the M2-1 and M2-2 Districts, land uses and manufacturing processes with inherent fire and explosive hazards shall be controlled as follows:

- (1) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in the M2 Districts unless licensed by the City Controller with the approval of the Fire Prevention Bureau. A list of such materials is contained in § 163.012. However, in no case shall such materials or products be stored or manufactured within 300 feet of the boundary of any other zoning district, except a M3 District, unless otherwise authorized by the Fire Prevention Bureau.
- (2) The storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the Director of the Department of Development and Planning, is permitted.
- (3) The storage, utilization, or manufacture of materials or products ranging from free or active burning to intense burning, as determined by the Director, is permitted, provided that within 50 feet of the boundary of a Residence or Business District, the following restrictions shall apply:
  - (a) All storage, utilization or manufacture of these materials or products shall be within completely enclosed buildings having incombustible exterior walls.
  - (b) All such buildings or structures shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.
- (4) Materials or products which produce flammable or explosive vapors or gases under ordinary weather temperatures shall not be permitted in this District, with the exception of the following which are permitted:
  - (a) Materials required for emergency or standby equipment.
  - (b) Materials used in secondary processes which are auxiliary to a principal operation, such as paint-spraying of finished products.
  - (c) Flammable liquids and oils, stored, sold, and used in conjunction with the operation of an automobile service station and customarily required or used in that operation. ('60 Code, § 6-823)

(J) The maximum floor area ratio of buildings or structures on a zoning lot shall be as follows.

- (1) In an M2-1 District, the floor area ratio shall not exceed 1.5.
- (2) In an M2-2 District, the floor area ratio shall not exceed 2.0. ('60 Code, § 6-824)

(K) In the M2-1 and M2-2 Districts, the regulations governing minimum front yards for the M1 Districts shall apply. ('60 Code, § 6-825)

(L) In the M2-1 and M2-2 Districts, the regulations along Residence District boundaries for the M1 Districts shall apply. In addition, along any side lot line directly across the street from a Residence District, a side yard shall be provided on each zoning lot. Each side yard shall be equal in width to 10% of the width of the zoning lot, but need not exceed 50 feet in width.

### § 163.083 \_\_ M3 HEAVY INDUSTRIAL DISTRICTS.

(A) The following conditions shall be placed upon the land uses authorized as permitted or special use land uses in the M3 Heavy Industrial District:



(1) All production, processing, cleaning, servicing, testing, repair, or storage of goods, materials, or products shall conform to the performance standards set forth in this section (refer to City of Gary Toxics Ordinance for further restrictions).

(2) Within 150 feet of a Residence District, all business, production, servicing, processing, and storage shall take place or be within completely enclosed buildings or structures unless otherwise specified. However, within 150 feet of a Residence District, off-street loading facilities and off-street or shared parking of motor vehicles under 3.5 ton capacity may be unenclosed except for the screening or parking and loading facilities that may be required under the provisions of §§ 163.100 through 163.113. ('60 Code, § 6-827)

(B) In the M3 District, the following land uses are permitted.

(1) Any land use permitted in the M2 Districts, but subject to the performance standards for this M3 District.

(2) Production, processing, cleaning, servicing, testing, and repair, including the following uses and manufacturing of the following products:

- (a) Automobile wrecking.
- (b) Asphalt and asphalt products.
- (c) Charcoal, lampblack, and fuel briquettes.
- (d) Chemicals, including acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, cleaning and polishing preparations, creosote, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton or other materials, nitrates, manufactured and natural, of an explosive nature, potash, plastic materials and synthetic rosins, pyroxylin, rayon yard, hydrochloric, picric and sulphuric acids and derivatives.
- (e) Coal, coke, and tar products, including gas manufacturing.
- (f) Electric central station power, steam-generating plants or cogeneration facilities.
- (g) Explosives, when not prohibited by other city laws.
- (h) Fertilizers.
- (i) Film, photographic.
- (j) Flour, feed, grain, and processing,
- (k) Gelatin, glue and size, animal.
- (l) Linoleum and oil.
- (m) Magnesium foundries.
- (n) Matches.
- (o) Metal and metal ores, and rare metals, reduction, refining, smelting, and alloying.
- (p) Paint, lacquer, shellac, varnishes, linseed oil, and turpentine.
- (q) Petroleum and petroleum products, subject to the provisions of division (H) of this section.
- (r) Rubber, natural or synthetic.
- (s) Soaps, including fat and oil rendering.
- (t) Starch.
- (u) Manufacturing of steel and metal alloy products.
- (v) Wood, coal, and bone distillation.
- (w) Any other production, processing, cleaning, servicing, testing and repair which conforms with the performance standards established hereinafter for the M3 District.

(3) Storage, including the following uses and materials or products:

- (a) Goods used in or produced by manufacturing activities permitted in this District.
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- (b) Outdoor storage of solid or processed by-products materials.
- (c) Explosives, subject to the provisions of division (H) of this section.
- (d) Grain.
- (e) Manure, peat, and top-soil.
- (f) Flammable liquids and oils stored, sold, and used in conjunction with the operation of an automobile service station and customarily required or used in that operation.
- (4) Miscellaneous land uses, as follows:
  - (a) Railroad, water freight and port terminals, motor freight terminals, railroad switching and classification yards, repair shops, and roundhouses.
  - (b) Intermodal transportation facilities.

(C) In an M3 District, the following land uses may be allowed as special uses by the Board of Zoning Appeals in accordance with the provisions of §§ 163.020 through 163.043.

- (1) Any land use which may be allowed as a special use in the M2 districts, as set forth in § 163.082 (C) unless already permitted under this section.
- (2) Recycling facilities.
- (3) Medical waste facilities.

(D) In the M3 District, the performance standards governing noise in the M2 Districts shall apply.

(E) In the M3 District, the performance standards governing odorous matter in the M2 District shall apply.

(F) In the M3 District, the performance standards governing vibration in the M2 Districts shall apply.

(G) In the M3 District,

- (1) A land use on any property shall not discharge across the boundaries of that property toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to other property or business. ('60 Code, § 6-821);
- (2) In the M2 District, no use is permitted in the treatment, storage and disposal of toxic or infectious materials.
- (3) In the M2 District, no use is permitted in the treatment, storage and disposal of toxic or infectious material without obtaining a special exception under Section 163.033.

(H) In the M3 District, fire and ex-plosive hazards shall be controlled as follows:

- (1) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in the M3 District unless licensed by the City Controller with the approval of the Fire Prevention Bureau. A list of such materials is set out in § 163.012. However, in no case shall these materials or products be stored or manufactured within 300 feet of the boundary of any other district unless otherwise authorized by the Fire Prevention Bureau.
  - (2) The storage, utilization, or manufacture of materials or products ranging from incombustible to fast burning, as determined by the Director of the Department of Development and Planning, or which produce flammable or explosive vapors or gases under ordinary weather temperature is permitted. However, within 600 feet of the boundary of any other zoning district, the storage, utilization, or manufacture of materials or products which produce flammable or explosive vapors or gases under ordinary weather temperature is not permitted, with the exception of the following, which are permitted within 600 feet.
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- (a) Materials required for emergency or standby equipment. Materials used in secondary processes which are auxiliary to a principal operation, such as paint-spraying of finished products.
- (b) Flammable liquids and oils stored, sold, and used in conjunction with the operation of a motor vehicle service station and customarily required or used in that operation. ('60 Code, § 6-834)
- (I) The floor area ratio of buildings and structures on a zoning lot shall not exceed 2.5.
- (J) In an M3 District, the regulations governing minimum front yards for the M2 District shall apply.
- (K) In an M3 District, no building, structure, or other obstruction or portion thereof, except as allowed in § 163.009, shall be located within 300 feet of the boundary of Residence or Business District unless the building, structure, or other obstruction or portion thereof within 150 feet of the boundary of the Residence District complies with the regulations along Residence District boundaries for the M2 Districts, as set forth in § 163.081 (K), and unless the use thereof complies with the performance standards for the M2 District. ('60 Code, § 6-837) (Ord. 3376, passed) Penalty, see § 163.999

## **FLOODPLAIN DISTRICT**

### **§ 163.085 \_\_\_\_\_ PURPOSE.**

The purpose of this subchapter is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Gary Common Council hereby adopts the following floodplain management regulations in order to accomplish the following:

- (A) To prevent unwise developments from increasing flood or drainage hazards to others;
- (B) To protect new buildings and major improvements to buildings from flood damage;
- (C) To protect human life and health from the hazards of flooding;
- (D) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- (E) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- (F) To make federally subsidized flood insurance available for structures and their contents in the City of Gary by fulfilling the requirements of the National Flood Insurance Program. (Ord. 6705, passed 3-16-94)

### **§ 163.086 \_\_\_\_\_ DEFINITIONS.**

For the purpose of this subchapter, the following definitions are adopted:

"BUILDING." See "STRUCTURE."

"DEVELOPMENT." Any manmade change to improved or unimproved real estate including but not limited to:

- (1) Construction, reconstruction, or placement of a building or any addition to a building valued at more than \$1,000;
- (2) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) Mining, dredging, filling, grading, excavation, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Storage of materials; or
- (8) Any other activity that might change the direction, height, or velocity of flood or surface waters.

"DEVELOPMENT." does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

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

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

"FBFM." Flood Boundary and Floodway Map.

"FEMA." Federal Emergency Management Agency.

"FHBM." Flood Hazard Boundary Map.

"FIRM." Flood Insurance Rate Map.

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

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

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

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

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

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

"LOWEST FLOOR." The lowest of the following:

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

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

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

"RECREATIONAL VEHICLE." A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

"REGULATORY FLOOD." The flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 163.088. The regulatory flood is also known by the term "BASE FLOOD."

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"SFHA OR SPECIAL FLOOD HAZARD AREA." Those lands within the jurisdiction of the City that are subject to inundation by the regulatory flood. The SFHAs of the City generally identified as such on the Flood Insurance Rate Map of the City prepared by the Federal Emergency Management Agency and dated March 16, 1981. The SFHAs of those parts of unincorporated Lake County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Insurance Rate Map prepared for Lake County by the Federal Emergency Management Agency and dated September 2, 1981.

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

"SUBSTANTIAL IMPROVEMENT." Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. (Ord. 6705, passed 3-16-94)

#### **§ 163.087 \_\_\_ DUTIES OF THE ADMINISTRATOR.**

The Zoning Administrator (i.e., Plan Commission Director, Building Inspector, Clerk Treasurer, etc.) shall implement this subchapter and hereafter referred to as the Zoning Administrator. The Zoning Administrator for the City is appointed to review all development and subdivision proposals to insure compliance with this subchapter, including, but not limited, to the following duties.

(A) Ensure that all development activities within the SFHAs of the jurisdiction of the City meet the requirements of this subchapter;

(B) Provide information and assistance to citizens upon request about permit procedures and flood plain construction techniques;

(C) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to § 163.090, and maintain a record of such authorization (either copy of actual permit or letter of recommendation);

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

(E) Maintain a record of the engineer's certificate and the 'as-built' flood-proofed elevation of all buildings subject to § 163.091;

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

(G) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMB), copies of DNR permits and letters of recommendation, federal permit documents, and "as-built" elevation and floodproofing data for all building construction subject to this subchapter.(Ord. 6705, passed 3-16-94)

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**§ 163.088 \_\_ REGULATORY FLOOD ELEVATION.**

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

(A) The regulatory flood elevation and floodway limits for the SFHAs of the Little Calumet River, Grand Calumet River and Southern Shore of Lake Michigan shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the City dated September 16, 1980 and the corresponding (FBFM/FIRM) dated March 16, 1981 prepared by the Federal Emergency Management Agency.

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

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

(D) The regulatory flood elevation and floodway limits for the SFHAs of those parts of unincorporated Lake County that are within the extraterritorial jurisdiction of the City that may be annexed into the City shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of Lake County dated March 2, 1981 and the corresponding (FBFM/FIRM) dated September 2, 1981 prepared by the Federal Emergency Management Agency.

(E) If the SFHA is delineated as "AH Zone" or "AO Zone," the elevation (or depth) will be delineated on the County Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Department of Natural Resources. (Ord. 6705, passed 3-16-94)

**§ 163.089 \_\_ IMPROVEMENT LOCATION PERMIT.**

No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining an Improvement Location Permit from the Zoning Administrator. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed development does not meet the requirements of this subchapter.

(A) The application for an Improvement Location Permit shall be accompanied by the following:

- (1) A description of the proposed development;
  - (2) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
  - (3) A legal description of the property site;
  - (4) A site development plan showing existing and proposed development locations and existing and proposed land grades;
  - (5) Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1919 (NGVD) or North American Vertical, Datum (NAVD). In either case the conversion formula should be included.
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(B) Upon receipt of an application for an Improvement Location Permit, the Zoning Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.

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

Under the provisions of IC 13-2-22, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the building.

No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Building Official may issue the local Improvement Location Permit, provided the provisions contained in §§ 163.090 and 163.091 have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) If the site is located in an identified floodway fringe, then the Zoning Administrator may issue the local Improvement Location Permit provided the provisions contained in §§ 163.090 and 163.091 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade (FPG).

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

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

Once the Zoning Administrator has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in §§ 163.090 and 163.091 have been met.(Ord. 6705, passed 3-16-94)

#### **§ 163.090 \_\_ PREVENTING INCREASED DAMAGES.**

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

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

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

(2) For all projects involving channel modifications or fill (including levees), the City

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shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(B) Within all SFHAs identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided), the following standard shall apply:

(1) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.

(C) Public Health Standards in all SFHAs.

(1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a floodproofed storage tank or building constructed according to the requirements of § 163.091.

(2) New and replacement sanitary sewer lines and onsite waste disposal systems may be permitted providing all man-holes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight. (Ord. 6705, passed 3-16-94)

#### **§ 163.091 \_\_ PROTECTING BUILDINGS.**

In addition to the damage prevention requirements of § 163.090, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

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

- (1) Construction or placement of any new building valued at more than \$1,000;
- (2) Structural alterations made to an existing building that increase the market value of the building by more than 50% (excluding the value of the land);
- (3) Any subsequent alterations;
- (4) Reconstruction or repairs made to a damaged building that are valued at or more than 50% the market value of the building (excluding the value of the land) before damage occurred;
- (5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This subchapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and
- (6) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(B) This building protection requirement may be met by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in § 163.087.

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

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

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

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

(d) The fill shall not adversely affect the flow of surface drain age from or onto neighboring properties.

(e) The top of the lowest floor including basements (see definition of lowest floor in § 163.086), shall be at or above the FPG.

(2) A residential or nonresidential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:

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

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

(b) The foundation and sup-orting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice, and floating debris.

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

(3) Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site:

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

(b) This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

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The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by rein-forced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (4) Recreational vehicles placed on a site either:
  - (a) Be on the site for less than 180 consecutive days;
  - (b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
  - (c) Meet the requirements for "MANUFACTURED HOME" in subdivision (3) of this subsection.
- (5) A nonresidential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:
  - (a) A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
  - (b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity. (Ord. 6705, passed 3-16-94)

**§ 163.092 \_\_\_ OTHER DEVELOPMENT REQUIREMENTS.**

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

- (1) It is consistent with the need to minimize flood damages;
- (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards;
- (4) On-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

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

All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed with and approved by the appropriate community emergency management authorities. (Ord. 6705, passed 3-16-94)

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**§ 163.093 \_\_ VARIANCES.**

(A) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this subchapter provided the applicant demonstrates that:

- (1) There exists a good and sufficient cause for the requested variance;
- (2) The strict application of the terms of this subchapter will constitute an exceptional hardship to the applicant; and
- (3) The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

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

- (1) No variance or exception for a residential use within a floodway subject to § 163.090(A) or (B) may be granted;
- (2) Any variance or exception granted in a floodway subject to § 163.090(A) or (B) will require a permit from Natural Resources;
- (3) Variances or exceptions to the Building Protection Standards of § 163.091 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 grade;
- (4) Variances or exceptions may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
- (5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and

The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums. (Ord. 6705, passed 3-16-94)

**§ 163.094 \_\_ DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this subchapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this subchapter does not create any liability on the part of the community, Natural Resources, or the state of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder. (Ord. 6705, passed 3-16-94)

**§ 163.095 \_\_ VIOLATIONS.**

Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this subchapter. All violations shall be considered a common nuisance and be treated as such in

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accordance with the provisions of the Zoning Code for the City. All violations shall be punishable by a fine not exceeding \$2,500.

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

(B) The Gary City Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(C) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 6705, passed 3-16-94)

**§ 163.096 \_\_ ABROGATION AND GREATER RESTRICTIONS.**

This subchapter repeals and replaces other ordinances adopted by the Gary Common Council to fulfill the requirements of the National Flood Insurance Program, including § 163.90. However, this subchapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this subchapter repeal, abrogate, or impair any existing easements, covenants, deed restrictions. Where this subchapter and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the Gary Common Council shall assure that all National Flood Insurance Program regulations and laws (310 IAC 6-1-1, IC 13-2-22 and IC 13-2-22.5) are met. (Ord. 6705, passed 3-16-94)

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## **OFF-STREET PARKING AND LOADING**

### **§ 163.100 SCOPE OF REGULATIONS**

- (A) It is the purpose of these regulations to provide adequate on-site parking for developments, minimize any detrimental effects of on-site parking areas on adjacent properties, and ensure the proper and uniform development of parking areas throughout the City. On-site parking and loading spaces for every use shall be provided in accordance with the standards established herein. Furthermore, parking areas shall be designed to:
- (1) Minimize dangerous traffic movements;
  - (2) Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers (ITE) Transportation and Traffic Engineering Handbook; and
  - (3) Conform to the applicable parking requirements and provide for the optimum number of parking spaces, while maintaining design standards and preserving green space.
- (B) The off-street parking and loading provisions of this chapter shall apply as follows.
- (1) For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking and loading facilities shall be provided as required by the regulations of the districts in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of this chapter, and provided that construction is begun within one year of such effective date and diligently prosecuted to completion, parking and loading facilities as required hereinafter need not be provided.
  - (2) When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of the land 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 or loading facilities unless and until the aggregate increase in units of measurement shall equal not less than 15% of the units of measurements existing upon the effective date of this chapter, in which event parking or loading facilities as required herein shall be provided for the total increase.
  - (3) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the building or structure was erected prior to the effective date of this chapter, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking and loading provisions of this chapter. ('60 Code, § 6-1001) (Ord. 3376, passed) Penalty, see § 163.999

Cross-reference: Exempted districts, see § 163.112

### **§ 163.101 EXISTING FACILITIES.**

Accessory off-street parking or loading facilities which are located on the same lot as the building or land use served and which were in existence on the effective date of this chapter or were provided voluntarily after such effective date shall not hereafter be reduced below, or if already less, shall not

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further be reduced below the requirements of this chapter for a similar new building or use.('60 Code, § 6-1002) (Ord. 3376, passed)Cross-reference: Destruction of existing facilities, see § 163.103

**§ 163.102 VOLUNTARY ESTABLISHMENT OF FACILITIES.**

Nothing in this chapter shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing land use or buildings, provided that all regulations herein governing the location, design, improvement and operation of such facilities are adhered to.('60 Code, § 6-1003) (Ord. 3376, passed)

**§ 163.103 DESTRUCTION OF EXISTING FACILITIES.**

For any conforming or legally non-conforming building or land use which is in existence on the effective date of this chapter, which subsequently thereto is damaged or destroyed by fire, collapse, explosion, or other cause and which is reconstructed, re-established, or repaired, off-street parking or loading facilities need not be provided, except that parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this chapter for equivalent new uses or construction.('60 Code, § 6-1004) (Ord. 3376, passed)

**§ 163.104 CONTROL OF PARKING FACILITIES.**

- (A) Where required parking facilities are provided on land other than the zoning lot on which the building or land use served by the facilities is located, they shall be and remain in the same possession or ownership as the zoning lot occupied by the building or use to which the parking facilities are accessory.
  - (B) An off-site parking facilities shall not be authorized and a zoning certificate shall not be issued where the plans call for parking facilities other than on the same zoning lot until and unless the Board of Zoning Appeals has reviewed the plans and heard the applicant and made findings that the common ownership or possession of the zoning lot and the site of the parking facilities are reasonably certain to continue, and that the off-site parking facilities will be maintained at all times during the life of the proposed use or building.('60 Code, § 6-1005) (Ord. 3376, passed)
  - (C) Upon the approval of the Board of Zoning Appeals, a parking lot may be built with fewer spaces than the required minimum spaces herein if the following standards are met:
    - (1) Land Bank Area: Adequate space shall be land banked such that the full number of parking spaces required in can be built on-site at a later date, should the need arise;
    - (2) Shared Parking Facility: adequate spaces to meet the minimum number of parking spaces required herein are available at a shared parking facility site.
    - (3) Mixed Development Land Uses: Where a development contains multiple land uses with different peak travel generation, the total required parking spaces may be reduced by the Board of Zoning Appeals upon recommendation of the Plan Commission and petition by an applicant. In such instances, parking space reductions shall be determined by utilizing the ITE: Trip Generation standards or similar professional parking or travel demand standards.
    - (4) Multi-modal Proximity: Where a development is located within one-tenth (0.10) of a mile of a public transit stop or a multi-use trail facility, the minimum parking requirement may be reduced by up to a maximum of fifteen percent (15%) upon a Commission finding of fact to such qualification.
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- (5) Maximum Reduction: Under no circumstances shall a reduction be less than fifty percent (50%) of the spaces required to be installed.
- (D) Parking for the Disabled:
  - (1) Accessible spaces shall be provided per the specifications of the Americans with Disabilities Act (ADA), the Fair Housing Act (“FHA”), and the Indiana Building Code (“IBC”).
  - (2) Each accessible space shall be located adjacent to an access aisle and in proximity to the building entrance most accessible for the disabled.
  - (3) All accessible spaces shall be striped and have vertical signs identifying them as accessible spaces.
  - (4) Refer to Section 163.113 for further requirements and standards.

**§ 163.105 SUBMISSION OF PARKING DESIGN PLAN.**

- (A) Parking Design Required: A design shall be presented showing how the full number of parking spaces required both on-site and off-site shall be installed, the type of parking area surface, how drainage would be handled and landscaping installed. This design shall be reviewed by the planning staff for Commission review for compliance with this chapter.
- (B) Any application for a building permit or for a certificate of occupancy where no building permit is required shall include therewith a parking design plan, drawn to scale and fully dimensioned, showing any parking or loading facilities to be provided in compliance with this chapter. ('60 Code, § 6-1006) (Ord. 3376, passed)

**§ 163.106 GENERAL PARKING SPACE REGULATIONS.**

- (A) Use of Parking Spaces:
  - (1) Exclusive Use: Unless a shared parking agreement has been established in accordance with this chapter, on-site parking spaces shall be designed, maintained and used exclusively for the tenants, occupants and customers of the buildings or land uses on the site.
  - (2) Storage of Vehicles or Equipment: Parking lots and spaces, including both required and excess parking spaces, shall not be used for storing vehicles that are not used in conjunction with the primary use of the lot.
  - (3) Motor Vehicle Repair: Motor vehicle repair work in parking areas shall be permitted in residential districts, provided that the vehicle under repair is owned by the occupant of the residential property; the frequency, duration and scope of such use is reasonable and customary as accessory to the residential use; and no business is being conducted in conjunction with such repair use. Motor vehicle repair work in parking areas, including both required and excess parking spaces, shall be prohibited in all other zoning districts.
- (B) Except as otherwise indicated, required accessory off-street parking facilities provided for land uses listed hereinafter shall be solely for the parking of passenger automobiles of patrons, occupants (or their guests) or employees of such land uses.
- (C) On lots of record as of the date of the adoption of this chapter, which are 40 feet or less in width, which are to be improved with a single-family dwelling or a two-family dwelling for which an alley has not been dedicated to the rear, accessory off - street parking facilities shall not be required.
- (D) When determination of the number of off-street parking spaces required by this chapter results in a requirement of a fractional space, any fraction of one half or less may be disregarded while a fraction in excess of one half shall be counted as one parking space.



- (E) Stacked parking spaces shall not be used to fulfill minimum parking space requirements. Single-family residences are exempt from this provision.
- (F) Off-street parking facilities for separate land uses may be provided collectively under the following circumstances:
- (1) 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 all regulations governing, location of accessory parking spaces in relation to the use served are adhered to unless provided as a shared parking facility. Furthermore, no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Board of Appeals in accordance with § 163.033.
  - (2) Shared Parking Facilities:
    - (a) Authorization: The owners of two (2) or more properties may join together to provide the required parking spaces for their respective land uses. Upon request by the owners and after review of the request by the Plan Commission, the Commission may authorize the use of a shared parking facility under the following conditions:
      - (i) Minimum: In a shared parking arrangement, each property shall provide a minimum of sixty percent (60%) of the individual parking requirements. In no case shall the total combined parking spaces be less than one hundred and twenty percent (120%) of the greater individual parking requirement.
      - (ii) Proximity: Any property utilizing shared parking facilities shall be located within three hundred (300) feet of such parking facility, using established sidewalks and crosswalks where available.
      - (iii) Shared Parking Agreement: The property owner seeking leased spaces shall provide a recordable zoning commitment to the Planning Department stating that in the case where leased spaces are no longer available, that an adequate parking alternative will be provided.
- (G) Parking of Nuisance Vehicles:
- (1) Vehicles and trailers: The parking of any vehicle or trailer of any type without current license plates or in an in-operable condition shall be prohibited unless completely enclosed within a building or within an approved salvage/scrap yard.
  - (2) Storage, occupancy, or similar uses: Vehicles, campers or tractor/trailers of any type shall not be used for the purpose of storage, occupancy, or similar use.
  - (3) Motor vehicle repair: A maximum of three (3) wrecked or in-operable vehicles awaiting repair may be stored on-site at one time. No such vehicle shall be stored on-site in excess of thirty (30) days.
- (H) A required off-street parking space shall be at least nine (9) feet in width and at least eighteen (18) feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Such space shall have a vertical clearance of at least seven (7) feet.
- (I) Each required 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. All open off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. No driveway across public property nor curb cut shall exceed a width of 25 feet.
- (J) Off-street parking spaces may be located in any yards except required front yards.
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- (K) Design and maintenance.
- (1) Accessory parking spaces located on the same lot as occupied by the land use served may be open to the sky or enclosed in a building. Accessory parking spaces located in a residence district elsewhere than on the same lot occupied by the use served shall be open to the sky except when otherwise allowed as a special use by the Common Council of the city under the provisions of § 163.041.
  - (2) All open off-street parking areas, except a parking spaces in a residentially zoned Traditional Neighborhood District, shall be improved with an all-weather, dustless, paved pervious or pervious concrete surface.
  - (3) All open automobile parking areas containing more than four parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residentially zoned district or any institutional premises by a wall, fence, or densely planted compact hedge not less than five (5) feet or more than seven (7) feet in height. Such required screening shall conform to the front and side yard setback requirements of the district in which the parking is located.
  - (4) Accessory signs are permitted on parking areas in accordance with the provisions of § 159.01.
  - (5) Motor vehicle repair work of any kind shall not be permitted in conjunction with accessory off-street parking facilities provided in the residence, B1, B2, B3 or B4 Districts. The sale of gasoline and motor oil in conjunction with accessory off-street parking facilities is not permitted in any residence district except an R6 district and is permitted there only where taking place within a building enclosing parking facilities, provided that no sign advertising such sale is visible from outside and that all gasoline and oil dispensing equipment is effectively screened from view from the public way. The sale of gasoline and motor oil in conjunction with accessory off-street parking facilities provided in a B1, B2, B3 or B4 district is permitted only under the conditions prescribed above for such sale in an R6 district.
- (L) On-street Parking Exemption: The Plan Commission may approve the utilization of on-street parking spaces to count toward the provision of the minimum number of spaces required for a development. Such on-street spaces shall be located along the property frontage on the same side of the street as the development requesting their land use. In cases where new on-street spaces are being created as a component of the development, the design of such spaces shall meet the standards of the City Engineering Department and shall be available to the general public.
- (M) The total number of accessory parking spaces provided for a single-family, two-family, or multiple-family dwelling or hotel shall not exceed that required by this chapter for such use or for an equivalent new use by more than 50% or four spaces, whichever number is greater.
- (N) When two or more uses are located on the same zoning lot, only one exemption in terms of floor area, as set forth in the "Schedule of Parking Requirements," § 163.108, shall be taken. (160 Code, § 6-1008) (Ord. 3376, passed; Am. Ord. 3975, passed) Penalty, see § 163.999
- (O) Storm Water Drainage:
- (1) Parking areas shall be constructed such that all surface water is directed into a storm water drainage system.
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- (2) Water draining from a parking lot shall not flow across a sidewalk, walking or biking trail.
- (3) Storm Water Drainage Plans for off-street parking areas shall be reviewed and approved by City Engineering Department with a recommendation to the Plan Commission for storm water drainage compliance.

(P) Surface Material:

- (1) Unless specifically stated otherwise in the Zoning Ordinance, all off-street areas used for parking shall be asphalt, concrete, or other approved material.
- (2) The Plan Commission, upon recommendation by the Planning Department staff, may require and approve other structurally-engineered, permeable parking pavers for hard surface parking surfaces provided the parking area is intended for low intensity or intermittent parking uses and parking pavers are designed and used to mitigate the negative environmental impacts of impervious surfaces.
- (3) Areas utilizing permeable parking pavers shall not count towards impervious surface calculations.

**§ 163.107 LOCATION OF OFF-STREET PARKING FACILITIES: RESIDENTIAL DISTRICTS.**

- (A) The location of off-street parking spaces in relation to the land use served in residential districts shall be as prescribed hereinafter. All distances specified shall be walking distances between such parking spaces and a main entrance to the land use served.
- (B) Location
  - (1) The parking spaces required for residential land uses shall be located on the same lot as the dwelling unit.
  - (2) Parking for residential uses shall be prohibited within the setback between the street and the building.
  - (3) In cases where the side or rear setback area is accessible via an improved alley, a front yard drive or parking shall not be permitted. The required parking area shall directly access the alley and be limited to twenty (20) feet in depth and twenty (20) feet in width. Any necessary determination concerning whether an alley allows for safe access shall be made by the City Engineering Department.
  - (4) Parking spaces for multi-family dwelling units may be exempt from the (B)(1) above if: (a) off-street parking is provided on a lot within 100 feet of the perimeter of the lot improved with the dwelling unit; (b) the owner of the multi-family dwelling unit shows proof of ownership in the lot for which the alternative parking area is requested; and (c) upon review and recommendation by the Planning Department and approval by the Plan Commission after a formal petition by the owner of the properties.
  - (5) Surface:
    - (a) Parking spaces shall utilize a dustless, hard surface of concrete or asphalt. Crushed stone, or comparable material may be approved by the Plan Commission if extraordinary conditions exist upon petition by the property owner. If approved, crushed stone parking surfaces shall be contained within a raised, permanent border.
    - (b) Under no circumstances shall stone, rock, dirt, sand or grass be permitted as parking areas.

- (c) All new driveway aprons onto a street shall be surfaced with concrete. Enlargement or modification of an existing driveway shall require driveway apron to be surfaced with asphalt or concrete.

**§ 163.108 NUMBER OF PARKING SPACES REQUIRED.**

For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.

(A) Residential uses.

- (1) One-family dwellings and two-family dwellings. One parking space shall be provided for each dwelling unit.
- (2) Multiple-family dwellings (including apartment hotels.) One parking space shall be provided for each dwelling unit, except that in an R6 or R7 district parking spaces equal in number to 75% of the number of dwelling units (exclusive of efficiency units) and 50% of the number of efficiency units shall be provided. For lodging rooms located in an apartment hotel, one parking space shall be provided for each three lodging rooms.
- (3) Tourist courts, tourist homes and motels. One parking space shall be provided for each dwelling unit or lodging room.
- (4) Hotels, transient. One parking space for each dwelling unit and one parking space for each three lodging rooms shall be provided.
- (5) Lodging houses. One parking space shall be provided for each three lodging rooms, plus one space for the owner or manager.
- (6) Private clubs and lodges (with sleeping facilities for guests). One parking space shall be provided for each three lodging rooms plus parking spaces equal in number to 10% of the capacity in persons(exclusive of lodging room capacity) of such club or lodge.

(B) Retail and service uses.

- (1) Retail stores and banks. One parking space shall be provided for each 300 square feet of floor area in excess of 2,000 square feet, except that in a 85-2 district, one parking space shall be provided for each 300 square feet of floor area in excess of 5,000 square feet.
- (2) Automobile service stations. One parking space shall be provided for each three employees.
- (3) Bowling alleys. Three parking spaces shall be provided for each alley, plus such additional spaces as may be required herein for affiliated uses, bars, restaurants and the like.
- (4) Establishments dispensing food or beverages for consumption on the premises. One parking space shall be provided for each 400 square feet of floor area in excess of 4,000 square feet, except that in a B5-2 district, one parking space shall be provided for each 400 square feet of floor area in excess of 7,500 square feet.
- (5) Furniture and appliance stores, household equipment or furniture repair shops.

One parking space shall be provided for each 600 square feet of floor area in excess of 4,000 square feet, except that in a B5-2 district, one parking space shall be provided for each 600 square feet of floor area in excess of 7,500 square feet.

- (6) Motor vehicle sales and machinery sales. One parking space shall be provided for each 600 square feet of floor area in excess of 4,000 square feet, except that in a B5-2 district, one parking space shall be provided for each 600 square feet of floor area in excess of 7,500 square feet.
  - (7) Theaters (indoor). One parking space shall be provided for each ten seats up to 500 seats, plus one parking space for each five seats above 500.
  - (8) Undertaking establishments, funeral parlors. Five parking spaces shall be provided for each chapel or parlor, plus one parking space for each funeral vehicle kept on the premises.
- (C) Offices, business, professional and governmental. One parking space shall be provided for each 500 square feet for floor area in excess of 4,000 square feet, except that in a 85-2 district, one parking space shall be provided for each 500 square feet of floor area in excess of 7,500 square feet.
- (D) Wholesale establishments (but not including warehouses and storage buildings other than accessory). One parking space shall be provided for each 600 square feet of floor area in excess of 4,000 square feet, except that in a H5-2 district, one parking space shall be provided for each 600 square feet of floor area in excess of 7,500 square feet.
- (E) Establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, goods or products. One parking space shall be provided for each three employees, plus one space for each vehicle used in the conduct of the enterprise.
- (F) Warehouses and storage buildings. One parking space shall be provided for each three employees, plus one space for each vehicle used in the conduct of the enterprise.
- (G) Community service uses.
- (1) Church, school, college, and other institutional auditoriums. One parking space shall be provided for each 12 seats.
  - (2) Colleges, universities, and business, professional, and trade schools. One parking space shall be provided for each three employees, and one parking space shall be provided for each six students based on the maximum number of students attending classes on the premises at any one time during any 24-hour period.
  - (3) Health centers, government operated. Three parking spaces shall be provided for each staff and visiting doctor.
  - (4) Hospitals. One parking space shall be provided for each three hospital beds, plus one parking space for each three employees (other than staff doctors), plus one parking space for each doctor assigned to the staff.
  - (5) Libraries, art galleries, and museums, public. One parking space shall be provided for each 1,000 square feet of gross floor area.
  - (6) Municipal or privately owned recreation buildings or community centers. One
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parking space shall be provided for each three employees, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public.

- (7) Public utility and public service uses. One parking space shall be provided for each three employees, plus spaces adequate in number, as determined by the Plan Commission, to serve the public. Schools, nursery, elementary, and high. One parking space shall be provided for each three employees.
  - (H) Place of assembly. Stadiums, arenas, auditoriums (other than church, college or institutional school), convention halls, dance halls, exhibition halls, skating rinks and other similar places of assembly. Parking spaces equal in number to 10% of the capacity in persons shall be provided.
  - (I) Miscellaneous uses.
    - (1) Fraternities, sororities and dormitories. One parking space shall be provided for each five active members, plus one parking space for the manager thereof.
    - (2) Institutions for the care of the insane or feeble-minded. One parking space shall be provided for each staff doctor, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public.
    - (3) Private clubs and lodges (without sleeping facilities for guests). Parking spaces equal in number to 10% of the capacity in persons shall be provided.
    - (4) Rest homes or nursing homes. One parking space shall be provided for each six beds, plus one parking space for each three employees (other than staff doctors), plus one parking space for each doctor assigned to the staff.
    - (5) Sanitariums, convalescent homes, or institutions for the aged or for children. One parking space shall be provided for each six beds, plus one parking space for each three employees (other than staff doctors), plus one parking space for each doctor assigned to the staff.
    - (6) Theaters, automobile drive-in. Reservoir parking space equal to 10% of the vehicle capacity of such theaters shall be provided.
    - (7) For the following uses, off-street parking spaces shall be provided in adequate number, as determined by the Plan Commission, to serve persons employed or residing on the premises as well as the visiting public.
      - (a) Airports or aircraft landing fields; heliports.
      - (b) Convents and monasteries.
      - (c) Fraternal or religious institutions.
      - (d) Outdoor amusement establishments, fair grounds, kiddie parks and other similar amusement centers.
      - (e) Rectories and parish houses.
      - (f) Swimming pools.
  - (J) Mixed uses. When two or more uses are located on the same zoning lot or within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking space or portion thereof shall serve as a required space for more than one use unless otherwise
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authorized by the Board of Appeals in accordance with § 163.031 (G).

- (K) Other uses. For uses not listed heretofore in this schedule of parking requirements, parking space shall be provided on the same basis as required for the most similar listed use, as determined by the Plan Commission. ('60 Code, § 6-1010) (Ord. 3376, passed; Am. Ord. 3802, passed) Penalty, see § 163.999

**§ 163.109 OFF-STREET LOADING BERTHS.**

(A)

- (1) All required loading berths shall be located on the same zoning lot as the land use served. A loading berth for vehicles over two ton capacity shall not be closer than fifty (50) feet to any property in a residence district unless completely enclosed by building walls, a uniformly painted solid fence or wall or any combination thereof, not less than six (6) feet in height. A permitted or required loading berth shall not be located within 25 feet of the nearest point of intersection of any two streets. A loading berth shall not be located in required side yard, and any loading berth located in a required rear yard shall be open to the sky.
  - (2) Unless otherwise specified, a required loading berth shall be at least ten (10) feet in width by at least 25 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 14 feet.
  - (3) Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements, subject to approval by the Commissioner of Streets.
  - (4) All open off-street loading berths shall be improved with a compacted macadam base not less than seven inches thick, surfaced with not less than two (2) inches of asphaltic concrete or some comparable all-weather dustless material.
  - (5) No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residence or business districts.
  - (6) Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
  - (7) For special uses other than prescribed for hereinafter, loading berths adequate in number and size to serve such use, as determined by the Plan Commission, shall be provided.
  - (8) Uses for which off-street loading facilities are required herein but which are located in buildings of less floor area than the minimum prescribed for such required facilities shall be provided with adequate receiving facilities off any adjacent alley, service drive or open space on the same lot which is accessible by motor vehicle. ('60 Code, § 6-1011)
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- (B) For the uses listed in the following table, off-street loading berths shall be provided on the basis of gross floor area of building or portions thereof devoted to such uses in the amounts shown herein.



<u>Use</u>	<u>Gross Floor Area in Square Feet</u>	<u>Required Number and Minimum Horizontal Dimensions of Berths</u>
(1) Multiple-family dwellings	10,000 to 200,000	1 (10 ft. x 25 ft.)
(2) Fraternity and sorority houses		
(3) Hospitals, sanitariums, and other institutional uses	For each additional 200,000 or fraction thereof	1 additional (10 ft. x 25 ft.)
(4) Hotels, clubs, and lodges, except as set forth in (5) below		
(5) Hotels, clubs, and lodges, when containing any of the following: retail shops, convention halls, auditoriums, exhibition halls, or business or professional offices (other than accessory)	10,000 to 20,000	1 (10 ft. x 25 ft.)
	20,000 to 150,000	1 (10 ft. x 50 ft.)
	For each additional 150,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
(6) Retail stores	5,000 to 10,000	1 (10 ft. x 25 ft.)
(7) Establishments dispensing food or beverages for consumption on the premises	10,000 to 25,000	2 (10 ft. x 25 ft. each)
	25,000 to 40,000	2 (10 ft. x 50 ft. each)
	40,000 to 100,000	3 (10 ft. x 50 ft. each)
(8) Motor vehicle and machinery sales	For each additional 200,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
(9) Wholesale establishments, but not including warehouse and storage buildings other than accessory		
(10) Auditoriums, convention halls, exhibition halls, sports arenas, stadiums	10,000 to 20,000	1 (10 ft. x 25 ft.)
	20,000 to 100,000	1 (10 ft. x 50 ft.)
	For each additional 100,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
(11) Bowling alleys	10,000 to 100,000	1 (10 ft. x 25 ft.)
(12) Banks and offices, business, professional, and governmental	For each additional 100,000 or fraction thereof to 500,000	1 additional (10 ft. x 25 ft.)
		1 additional (10 ft. x 25 ft.)
	For each additional or fraction thereof	

<u>Use</u>	<u>Gross Floor Area in Square Feet</u>	<u>Required Number and Minimum Horizontal Dimensions of Berths</u>
(13) Establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, goods, or products	5,000 to 10,000	1 (10 ft. x 25 ft.)
	10,000 to 40,000	1 (10 ft. x 50 ft.)
	40,000 to 100,000	2 (10 ft. x 50 ft. each)
	For each additional 100,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
(14) Warehouses and storage buildings		
(15) Theaters	8,000 to 25,000	1 (10 ft. x 25 ft.)
	For each additional 50,000 or fraction thereof	1 additional (10 ft. x 25 ft.)
(16) Undertaking establishments and funeral parlors	8,000 to 100,000	1 (10 ft. x 25 ft.)
	For each additional 100,000 or fraction thereof	1 additional (10 ft. x 25 ft.)

('60 Code, § 6-1012) (Ord. 3376, passed) Penalty, see § 163.999

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**§ 163.110 PARKING CERTAIN VEHICLES IN RESIDENTIAL DISTRICTS.**

It shall hereafter be unlawful for any person, owner, or driver to park or cause to be parked except for expediting pickup or delivery, any bus, truck, truck tractor, semi-trailer, or trailer that exceeds three-fourths ton of capacity of standard design upon any property in an area zoned for residential use, provided that this section shall not apply to vehicles governed by Chapter 155.

('60 Code, § 6-1001) (Ord. 4092, passed) Penalty, see 5 163.999

**§ 163.111 PARKING LOT FACILITIES.**

(A) For the purpose of this section the following definitions shall apply.

"MOTOR VEHICLES." Any automobile, truck, motor scooter, or other self-propelled vehicle.

"PARKING FACILITIES." Any outdoor or indoor space, plot, place, lot, parcel, yard or enclosure, or any portion thereof, where more than five (5) motor vehicles may be parked, stored, housed or kept, for which any charge is made.

(B) The establishment or creation of a parking facility in the City is declared to be a special use and shall be governed by the provisions of 5 163.041.

(C) Off-street parking facilities may be located in residential zoned districts for other than residential uses. Parking lots must conform to the following requirements and any other which may be placed on the special use at the time of consideration by the Plan Commission:

- (1) Entrances shall not be located on the front street thereby reducing the nonresidential traffic on the street.
- (2) Entrances shall be from the rear alley. Other entrances will be determined according to each specific request.
- (3) No parking will be permitted in front or side yards. These yards will conform to the requirements of the district they are located in. These yards will be planted with lawns and/or shrubbery.
- (4) Site plans will be submitted to the Gary Plan Commission at the time of the request.
- (5) Such parking lot shall be used solely for the parking of passenger vehicles.
- (6) The parking lot shall be closed between 11:00 p.m. and 6:00 a.m.
- (7) The parking lot shall conform to the provisions of § 163.112 with respect to design and maintenance.

('60 Code, § 6-1013) (Ord. 3713, passed; Am. Ord. 4515, passed) Penalty, see 5 163.999

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**§ 163.112 EXEMPTED DISTRICTS.**

In order to prevent undue traffic congestion in areas of intensive business concentration and so promote an orderly and efficient circulation of pedestrians and vehicles, it is necessary and reasonable that off-street parking facilities should be provided in such areas only in conformity with an over-all, coordinated parking plan. To secure these objectives, the following regulations shall be in effect in the B2-2, B2-3, B4-2 and B4-3 districts.

- (A) Accessory off-street parking facilities shall not be required for any land use in these districts under the terms of this chapter.
- (B) Off-street parking facilities shall not be permitted for any land use in these districts. The Plan Commission shall certify that the provision of such facilities is consistent with the over-all parking plan for the area and that the location and design of such facilities will not tend to create additional traffic congestion to an appreciable extent in the neighboring streets. ('60 Code, § 6-1007) (Ord. 3376, passed) Penalty, see § 163.999

**§ 163.113 SPACE RESERVATION REQUIREMENTS FOR HANDICAPPED PERSONS.**

- (A) Any parking facility under the jurisdiction or control of any public agency, which is available to private persons who desire to conduct business with the public agency, shall have a space reserved for the use of physically handicapped persons.
- (B) At least two parking spaces shall be reserved if the facility contains 25 or fewer parking spaces. At least four parking spaces shall be reserved if the facility contains more than 26 spaces while no more than 50 spaces. At least six parking spaces shall be reserved if the facility contains more than 51 spaces.
- (C) The reserved space or spaces shall be reserved by posting immediately adjacent to and visible from the space of spaces a sign bearing the official international wheelchair symbol stating the amount of the penalty (\$25) for violation of this section. A reasonable facsimile of the symbol shall be displayed on the handicapped person's motor vehicle registration plate.
- (D) If a public agency has no parking facility under its jurisdiction or control available to private persons who desire to conduct business with the public agency, the public agency shall request the portion of the street which is adjacent to the facilities of the public agency for the reservation of parking spaces for the use of physically handicapped persons.
- (E) Parking spaces required under this section must conform in size and location to the specifications established by the American National Standards Institute as these specifications existed on September 1, 1979. Access facilities between the parking facility and offices of the public agency must also conform to the specifications established by the American National Standards Institute. (Ord. 6110, passed 3-18-86) Penalty, see § 163.999

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Cross-reference:

Handicapped parking, see §5 72.20 through 72.23

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## APPENDIX A

### Ten Principles of Smart Growth

1. Mix land uses
  2. Take advantage of compact building design
  3. Create a range of housing opportunities and choices
  4. Create walkable neighborhoods
  5. Foster distinctive, attractive communities with a strong sense of place
  6. Preserve open space, farmland, natural beauty, and critical environmental areas
  7. Strengthen and direct development towards communities with existing infrastructure
  8. Provide a variety of transportation choices
  9. Make development decisions predictable, fair, and cost effective
  10. Encourage community and stakeholder collaboration in development decisions
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