

ARTICLE III. IMPROVEMENT LOCATION PERMITS

Editor's note: This article consists of the Improvement Location Permit ordinance, G.O. 27, 1995, adopted Feb. 27, 1995, as amended by G.O. 48, 1997, adopted Apr. 14, 1997; and G.O. 77, 1997, adopted May 19, 1997. Future amendments will be indicated by a parenthetical history note following the amended section.

Sec. 730-300. Applicability of regulations.

(a) Within Marion County, Indiana, no structure shall be located, erected, altered or repaired unless the use, character and location of the structure are in conformity with the provisions of the applicable zoning ordinances, Official Thoroughfare Plan for Marion County, Indiana, and other ordinances relating to land use, including this ordinance.

(b) Obtaining an Improvement Location Permit; specific exemptions.

(1) No structure shall be located, erected, altered or repaired upon any land within Marion County, Indiana, until an Improvement Location Permit has been applied for by the owner (or authorized agent) thereof and issued by the Metropolitan Development Commission of Marion County, Indiana, through the bureau of license and permit services, unless specifically exempted in subsection (b)(2) below.

(2) An Improvement Location Permit shall not be required for the creation or alteration of the following structures or for accomplishing the following types of improvements. All provisions and regulations of the zoning ordinance applicable in the particular situation shall continue to apply to exempted structures and improvements:

- a. Air conditioning units;
- b. Antennas;
- c. Children's play equipment (residential), including aboveground pools that are eighteen (18) inches or less deep and fifteen (15) feet or less in width at their widest point;
- d. Decks or patios (under eighteen (18) inches in height);
- e. Enclosure, within the existing building footprint, of portions of the building that already have a foundation and a roof (residential);
- f. Fences or structural barriers;
- g. Landscape strips;
- h. Mini-barns or sheds (under one hundred twenty (120) square feet and not on a permanent foundation);
- i. Movable, temporary use structures or buildings utilized during construction projects;
- j. Recycling containers;
- k. Repairs or alterations that do not change the height, size or lateral bulk of the structure;
- l. Residential awnings;
- m. Roof line changes (residential);
- n. Roof line changes that do not add usable floor space (commercial);

- o. Sidewalks on private property out of the public right-of-way; and
- p. Trash containers/dumpsters.

Sec. 730-301. Application for improvement location permit.

Application for Improvement Location Permits shall be made upon forms prescribed by the bureau of license and permit services, shall include a legal description of the lot, and shall be accompanied by the following:

- (1) Required site plan.** An accurate site plan in duplicate, drawn to scale, showing:
- a. Location of right-of-way line or lines of all streets, alleys and easements located adjacent to or within the lot. Location of centerline of all streets and dimension to right-of-way line(s).
 - b. Location and dimensions of private drives and interior access roads, including connection to public streets and proposed driveway entrances and exits.
 - c. Names of all adjacent streets, private drives and interior access roads.
 - d. Address of proposed structure or use, as assigned by the department of metropolitan development.
 - e. The lot and dimensions thereof.
 - f. Setbacks, minimum required front, side and rear yards.
 - g. Existing structures (location, dimensions to lot lines and size), except structures to be razed prior to or contemporaneously with construction pursuant to the permit.
 - h. Proposed location of structure(s) on lot, indicating dimensions to all lot lines.
 - i. Accurate dimensions of structure(s) proposed.
 - j. Signs, including location, dimensions to lot lines, type and size.
 - k. Size, height, and location of landscaping, screens, walls, fences (when required by ordinance or grant of variance).
 - l. Off-street parking area (when required by ordinance or grant of variance), including dimensions or parking spaces, driveways and maneuvering aisles.
 - m. Off-street loading area (when required by ordinance or grant of variance), including dimensions.
- (2) Other required information, plans, exhibits, evidence of submission of plans to other governmental agencies.**
- a. Any other information, plans or exhibits required by or to indicate compliance with applicable zoning ordinances, this article, covenants, commitments and conditions of grants of variance.
 - b. Any other applicable information, plans or exhibits required by the improvement location permit form, including but not limited to:
 - 1. Evidence of the applicant's submission of required plans to the bureau of license and permit services.
 - 2. Evidence of the applicant's submission of a required drainage plan to the bureau of license and permit services. Provided, however:

- i. The improvement location permit issuance may be withheld for a period not to exceed five (5) business days if in the opinion of the administrator commencement under such plan may result in a hazard to the public health, safety or general welfare.
- ii. If the bureau approves such plan, or at the expiration of such five (5) days has neither approved nor disapproved the plan, the permit shall be issued.
- iii. If the bureau disapproves the plan, the permit shall not be issued except in accordance with paragraph iv.
- iv. In the event of disapproval of the drainage plan by the bureau, a written statement of the reasons for disapproval shall be provided to the administrator and to the applicant. The administrator may then authorize issuance of the improvement location permit if the applicant shows an immediate hardship will accrue if such permit is not issued, the applicant covenants to comply with the requirements of the bureau regarding drainage, and the administrator, upon consultation with the bureau, determines that proceeding with construction would not result in a hazard to the public health, safety or general welfare.

(G.O. 2, 2002, § 1)

Sec. 730-302. Requirement of conformity with applicable ordinances, variances.

No permit shall be issued for any structure or use unless the use, character and location thereof shall be in conformity with the provisions of all applicable zoning ordinances, Official Thoroughfare Plan for Marion County, Indiana, and other ordinances relating to land use, including this article.

No permit shall be issued for any structure or use authorized by variance unless the use, character and location thereof shall be in conformity with all requirements and conditions of the variance.

Sec. 730-303. Requirement of conformity with conditions and commitments.

No permit shall be issued for any structure or use unless the use, character and location thereof shall be in conformity with all conditions and commitments.

Provided, however, a petition to modify plans, conditions or commitments may be filed with the appropriate public body (Metropolitan Development Commission or Board of Zoning Appeals) in compliance with all requirements of the applicable body's rules of procedure.

Sec. 730-304. Street frontage requirements.

No permit shall be issued for any use or structure unless the lot abuts upon and has adequate frontage on a public street (the right-of-way of which has been dedicated and accepted for maintenance by governmental agency having jurisdiction thereof, or the construction of which is bonded in accordance with the standards and requirements of the applicable municipal agency having jurisdiction) in accordance with the requirements of all applicable ordinances, except as otherwise specifically authorized in zoning districts permitting private drives or interior access roads or by variance.

Sec. 730-305. Automatic revocation.

Every permit shall be automatically revoked if active work thereunder is not commenced within two (2) years of its issue, excepting, however, the Administrator may, upon good cause shown, grant extensions thereof for periods not to exceed one hundred eighty (180) days.

Sec. 730-306. Revocation in event of violation; enforcement.

Construction or development under any permit shall proceed according to the applicable ordinances, the site plan filed with the permit application, and the conditions or commitments of any applicable variance, rezoning or other approval grant. If the Administrator determines that construction or development is proceeding or has proceeded in violation of such ordinances, site plan or approval grant, or that the permit was issued in violation of an ordinance or the conditions of commitments of such approval grant, the Administrator may revoke such permit. The Administrator shall send written notice of the revocation to the permit applicant.

Sec. 730-307. Construction of language and definitions.

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

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

(b) Definitions.

Administrator. Administrator of the bureau of license and permit services or his or her appointed representative.

Alteration. Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

Antenna. A device that is designed to receive:

- (1) Direct broadcast satellite service, including direct-to-home satellite services; or
- (2) Video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or
- (3) Television broadcast signals.

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

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

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

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

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

Erect. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

Fence. A type of structural barrier usually made of posts supporting such items, by way of example, as chain link, wood pickets, lattice-work, and similar items.

Frontage (street frontage). The line of contact of a property with the street right-of-way along a lot line.

Mini-barn. A freestanding, completely enclosed, accessory building constructed of stone, brick, metal or wood designed with a rural character and intended for the storage of personal property solely of the occupants of the primary use on the lot (see also shed).

Right-of-way. Specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.

Right-of-way, private. Specific and particularly described strip of privately held land, property, or interest therein devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

- Right-of-way, public.* Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, officially recorded by the Office of the Marion County Recorder.
- Shed.* A freestanding, completely enclosed, accessory building, designed and intended for the storage of personal property solely of the occupants of the primary use on the lot (see also mini-barn).
- Sign.* Any structure, fixture, placard, announcement, declaration, device, demonstration or insignia used for direction, information, identification or to advertise or promote any business, product, goods, activity, services or any interests.
- Site plan.* The development plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot including as required by ordinance, but not limited to: topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways; means of ingress and egress; utility services; landscaping; buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.
- Street, private.* A privately held right-of-way, with the exception of alleys, essentially open to the sky and open for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking spaces, and the like.
- Street, public.* A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and the like.
- Structural barrier.* A physical structure, such as a fence, wall, or railing, that forms a boundary of, or enclosure to, a property or acts as a division between properties.
- Structure.* For purposes of this article, a "structure," for which an Improvement Location Permit shall be required, shall include any building, sign or other structure, constructed or erected, the use of which requires a more or less specific location upon the ground, whether permanently affixed to the ground, temporary or mobile. For purposes of this article, an underground storage tank also shall be considered a structure for which an Improvement Location Permit shall be required within the W-1 and W-5 districts of Chapter 735, Article VIII of this Code.
- Thoroughfare plan.* The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

Underground storage tank. The definition of an underground storage tank shall be as defined in Chapter 735, Article VIII of this Code.

(G.O. 2, 2002, § 2; G.O. 96, 2009)

Sec. 730-308. Severability.

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

Sec. 730-309. Establishment of a moratorium on the issuance of improvement location permits for off-premises (outdoor advertising) signs.

No improvement location permit shall be issued for an off-premises sign, an outdoor advertising sign or advertising sign in Marion County from the date of adoption of this section until the date when further amendments to the outdoor advertising sign provisions of the sign regulations are adopted or until December 1, 2003, whichever is earlier in time.

(G.O. 44, 2003, § 3)