

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

**REGULAR MEETINGS  
MONDAY, SEPTEMBER 21, 2009**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:01 p.m. on Monday, September 21, 2009, with Councillor Cockrum presiding.

Councillor McHenry led the opening prayer and invited all present to join her in the Pledge of Allegiance to the Flag.

**ROLL CALL**

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

*27 PRESENT: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn  
2 ABSENT: Minton-McNeill, Smith*

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

**INTRODUCTION OF GUESTS AND VISITORS**

Councillor Lutz recognized the Library's executive director, Laura Bramble. Councillor Pfisterer recognized the new director of the Medical Museum, Mary Ellen Nagich. Councillor Cain recognized Dave Lawrence, Indianapolis Arts Council. Councillor Mansfield recognized constituent Sheila Silverman. Councillor Oliver recognized constituent Robin West. Councillor McQuillen recognized president of IndyGo, Mike Terry. Councillor Malone recognized friend Brenda Smith. Councillor Nytes recognized Ellen Mons, a friend of the arts in Indianapolis. Councillor Evans recognized Reverend Willoughby. Councillor Bateman introduced his cousin, Joe Smith. Councillor Brown recognized Tim Hughes, Warren Township Board, and Joyce Liddell, IndyGo union representative.

**OFFICIAL COMMUNICATIONS**

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

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

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, September 21, 2009, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,  
s/Bob Cockrum  
President, City-County Council

September 9, 2009

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

Ladies and Gentlemen:

I have approved with my signature and delivered this day to the Clerk of the City-County Council, Melissa Thompson, the following ordinances:

FISCAL ORDINANCE NO. 29, 2009 - provides for additional appropriations and transfers in the 2009 Budget for various city and county agencies affecting various city and county funds to provide for continued operations and services of agencies

GENERAL ORDINANCE NO. 85, 2009 – amends the Code to restrict solicitation at intersections

GENERAL ORDINANCE NO. 86, 2009 - amends the Code to reduce the salaries for elected township assessors whose responsibilities were transferred to the county assessor as a result of HEA 1001, 2008 and the 2008 referendum

GENERAL ORDINANCE NO. 87, 2009 – authorizes a 25 mile per hour speed limit on Buck Rill Drive at Arlington Avenue (District 25)

GENERAL ORDINANCE NO. 88, 2009 – authorizes a 25 mile per hour speed limit in the Butler University neighborhood (District 8)

GENERAL ORDINANCE NO. 89, 2009 – authorizes a multi-way stop at the intersection of Gray Street and Newton Avenue (District 16)

GENERAL ORDINANCE NO. 90, 2009 – authorizes a multi-way stop at the intersection of Newton Avenue and Parker Avenue (District 16)

GENERAL ORDINANCE NO. 91, 2009 – authorizes a multi-way stop at the intersection of Meadowridge Trail and Royal Meadow Drive (District 23)

GENERAL ORDINANCE NO. 92, 2009 – authorizes a traffic signal at the intersection of Drury Inn Drive, Hilton Drive and Shadeland Avenue (District 5)

GENERAL ORDINANCE NO. 93, 2009 - : authorizes a change in parking restrictions on Hampton Drive in the vicinity of Clarendon Road (District 8)

SPECIAL ORDINANCE NO. 5, 2009 - elects to fund the Metropolitan Emergency Communications Agency (MECA) in 2010 with County Option Income Tax (COIT) revenues

GENERAL RESOLUTION NO. 21, 2009 – approves a request of the Department of Public Works to purchase certain land on Guion Road acquired for construction of a public works project

GENERAL RESOLUTION NO. 22, 2009 - approves the statement of benefits of Rexnord Industries, LLC to allow tax abatements for property located in an Economic Revitalization Area

GENERAL RESOLUTION NO. 23, 2009 - approves the first and second amendments to the agreement for the operation and maintenance of the advanced wastewater treatment facilities and wastewater and

September 21, 2009

stormwater collection facilities between the Department of Public Works and White River Environmental Partnership (d/b/a United Water Services Indiana)

SPECIAL RESOLUTION NO. 29, 2009 – recognizes Scott C. Newman for his many years of dedicated service to the City of Indianapolis/Marion County

SPECIAL RESOLUTION NO. 30, 2009 – recognizes select students of the Way Out Studio for their placement in the 2009 Isshinryu Worlds Karate Tournament

SPECIAL RESOLUTION NO. 31, 2009 - proposes an ordinance of the Marion County Income Tax Council confirming the homestead credit and confirming and extending the tax rates of the County Option Income Tax effective October 1, 2009

Respectfully,  
s/Gregory A. Ballard, Mayor

### **ADOPTION OF THE AGENDA**

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

### **APPROVAL OF THE JOURNAL**

The President called for additions or corrections to the Journal of August 31, 2009. There being no additions or corrections, the minutes were approved as distributed.

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

PROPOSAL NO. 347, 2009. The proposal, sponsored by Councillors Mansfield and Oliver, recognizes the 25th anniversary of Dialogue Today. Councillors Mansfield and Oliver read the proposal and presented representatives with copies of the document and Council pins. Brenda Smith, representative of Dialogue Today, thanked the Council for the recognition. Councillor Mansfield moved, seconded by Councillor Oliver, for adoption. Proposal No. 347, 2009 was adopted by a unanimous voice vote.

Proposal No. 347 2009 was retitled COUNCIL RESOLUTION NO. 88, 2009, and reads as follows:

#### **CITY-COUNTY COUNCIL RESOLUTION NO. 88, 2009**

A SPECIAL RESOLUTION recognizing the Twenty-Fifth Anniversary of Dialogue Today

WHEREAS, the State of Indiana recognizes the 1984 founding of Dialogue Today, a coalition of fifty Black and fifty Jewish women, by Diane Meyer Simon, Carole Stein, and the late Theresa Guise; and

WHEREAS, the mission of Dialogue Today is dedicated to the reaffirmation of the commitment of Black and Jewish women to their common concerns for the dignity and human rights of all people; and

WHEREAS, the leadership of Dialogue Today alternates by having Jewish and African American Presidents every other administrative term; and the committee structure of Dialogue Today is balanced by Jewish and African American Co-Chairs; and

WHEREAS, the membership of Dialogue Today has advocated strongly against gender bias, racism, anti-Semitism, the stigma associated with stereotypes, and the discordance advanced by hate-groups; and

WHEREAS, Dialogue Today has continued in the mission of commitment to the common concerns of universal dignity, and the sharing cultural of heritage by encouraging Book Discussions, sponsoring Thematic Retreats, and engaging in Dialogue Forums; now therefore:

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

SECTION 1. The Indianapolis City-County Council salutes and affirms the important work of Dialogue Today in promoting harmony in the community.

SECTION 2. The Council congratulates Dialogue Today on its 25-year history in Indianapolis, and sets September 24, 2009 to honor that achievement.

PROPOSAL NO. 362, 2009. The proposal, sponsored by Councillor Pfisterer, recognizes Virginia Terpening. Councillor Pfisterer read the proposal and presented Ms. Terpening with a copy of the document and a Council pin. Ms. Terpening thanked the Council for the recognition. Councillor Pfisterer moved, seconded by Councillor McQuillen, for adoption. Proposal No. 362, 2009 was adopted by a unanimous voice vote.

Proposal No. 362, 2009 was retitled SPECIAL RESOLUTION NO. 32, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 32, 2009

A SPECIAL RESOLUTION recognizing Virginia Terpening.

WHEREAS, Virginia Terpening received her Bachelor's in Secondary Education and Social Studies and her Master's in Education from Towson State University in Baltimore, MD; and

WHEREAS, Ms. Terpening has previously worked in a variety of capacities for the Indiana State Museum and the Indiana Historical Bureau, and for the past nine years, she has been the Executive Director of the Indiana Medical History Museum (IMHM); and

WHEREAS, during her tenure at IMHM, Ms. Terpening oversaw the receipt of many grants to purchase software and equipment, make infrastructure improvements, improve and update brochures, and aid in enhancing the museum's overall growth and effectiveness; and

WHEREAS, Ms. Terpening also created a new mission statement for IMHM; reinstated the graduate intern program, created undergraduate internship opportunities and the Historic Family Doctor's Office exhibit; rehabilitated the Dead House and initiated the National Historic Landmark designation process, as well as suggested the creation of the Medicinal Plant Garden.

WHEREAS, along with members of the Board of Directors of IMHM, Ms. Terpening created a new strategic plan and suggested the Endowment Fund; and

WHEREAS, in addition, Ms. Terpening has served in many leadership roles, including: president and secretary/treasurer, Marion County Historical Society; chair, Morris-Butler House Museum Advisory Council; recording secretary, Indiana Council for History Education; Indiana vice president, Midwest Museum Council; secretary/treasurer, Association of Indiana Museums; general co-chair, Indianapolis Association of Midwest Museums Conference; and board of trustees, Friends of the Indiana State Archives; and

WHEREAS, after greatly contributing to the appearance, expansion and success of the Indianapolis Medical History Museum, Ms. Terpening retired from her position as Executive Director on September 1, 2009; now, therefore:

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

SECTION 1. The Indianapolis City-County Council proudly recognizes Virginia Terpening for many years of service to the Indianapolis Medical History Museum and the City of Indianapolis.

SECTION 2. The Council wishes Ms. Terpening continued success in all future endeavors.

September 21, 2009

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

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

PROPOSAL NO. 334, 2009. Councillor Speedy reported that the Community Affairs Committee heard Proposal No. 334, 2009 on September 15, 2009. The proposal, sponsored by Councillor Speedy, appoints Kristin Lee Sims to the Marion County Children's Guardian Home Reuse Authority. By a 4-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Speedy moved, seconded by Councillor Cain, for adoption. Proposal No. 334, 2009 was adopted on the following roll call vote; viz:

*27 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*

*0 NAYS:*

*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 334, 2009 was retitled COUNCIL RESOLUTION NO. 89, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 89, 2009

A COUNCIL RESOLUTION appointing Kristin Lee Sims to the Marion County Children's Guardian Home Reuse Authority.

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

SECTION 1. As a member of the Marion County Children's Guardian Home Reuse Authority, the Council appoints:

Kristin Lee Sims

SECTION 2. The appointment made by this resolution is for a term ending April 30, 2010. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

**INTRODUCTION OF PROPOSALS**

PROPOSAL NO. 356, 2009. Introduced by Councillors Day and Nytes. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an additional appropriation of \$600,000 in the 2009 Budget of the Department of Metropolitan Development, Office of Code Enforcement (Consolidated County Fund) to finance the continued operations of the High Weeds and Grass program"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 357, 2009. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Jason Reyome to the Community Corrections Advisory Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 358, 2009. Introduced by Councillors Vaughn, Mansfield and Hunter. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints William Gooden to the Animal Care and Control Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 359, 2009. Introduced by Councillors Hunter and McQuillen. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Code to adopt a new chapter requiring permits for funeral and other escorted vehicular processions"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 360, 2009. Introduced by Councillor Hunter. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which establishes a 25 mile per hour speed limit on sections of Burgess Avenue and Julian Avenue (District 21)"; and the President referred it to the Public Works Committee.

**SPECIAL ORDERS - PRIORITY BUSINESS**

PROPOSAL NO. 361, 2009. Councillor Lutz stated that the Rules and Public Policy Committee heard Proposal No. 361, 2009 on September 17, 2009. The proposal, sponsored by Councillor Lutz, reviews the 2010 tax rates, tax levies and budgets of certain civil taxing units and adopts recommendations with respect thereto. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Sanders asked what this vote will actually do. Councillor Lutz said that they are simply voting to send their non-binding recommendations and review to the Department of Local Government Finance (DLGF). Councillor Sanders asked if this in no way has anything to do with consolidation. Councillor Lutz said that they are not, through this ordinance, consolidating anything and do not have the authority to do so.

Councillor Nytes asked if a vote indicates that they approve the budgets or if they are simply saying they have reviewed them. Councillor Lutz said that it simply says they have been reviewed and recommendations have been suggested, but the entities do not have to change their budgets to comply with recommendations.

Councillor Lutz moved, seconded by Councillor McQuillen, for adoption. Proposal No. 361, 2009 was adopted on the following roll call vote; viz:

*27 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*  
*0 NAYS:*  
*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 361, 2009 was retitled SPECIAL RESOLUTION NO. 33, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 33, 2009

A PROPOSAL FOR A SPECIAL RESOLUTION reviewing the 2010 tax rates, tax levies and budgets of certain civil taxing units and adopting recommendations with respect to such tax rates, levies and budgets.

WHEREAS, IC 6-1.1-17-3.5 requires the City-County Council to review and make recommendations with respect to certain tax rates, tax levies and budgets of certain civil taxing units located in Marion County; and

September 21, 2009

WHEREAS, the city-county council has now considered such tax rates, tax levies and budgets for 2010 of such civil taxing units and has considered the recommendations of the City Controller and Chief Financial Officer of the council; now, therefore:

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

SECTION 1. The city-county council has reviewed the budgets of the several civil taxing units listed on Exhibit A, attached to this resolution, and does adopt the recommendations with respect to each respective civil taxing unit as set forth in Exhibits A, B and C.

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

Councillor Sanders moved, seconded by Councillor Nytes, for Proposal No. 368, 2009 (Rezoning Case 2009-ZON-046) located at 450 East Washington Street and 101 North New Jersey Street, be scheduled for a hearing before this Council at its next regular meeting on October 5, 2009 at 7:00 p.m. and that the General Counsel read the announcement of such hearing and enter same in the minutes of this meeting. Councillor Sanders said that Councillor Minton-McNeill has taken medical leave from her job and is under a doctor's care and asked her to call the matter out for public hearing.

General Counsel Robert Elrod read the following announcement:

Mr. President:

This Council will hold a public hearing on Rezoning Petition No. 2009-ZON-046, Council Proposal No. 368, 2009, at its next regular meeting on October 5, 2009, such meeting to convene at 7:00 p.m. in these Council Chambers in the City-County Building in Indianapolis. This petition proposes to rezone 5.9 acres from the CBD-2 (RC) and I-3-U (RC) Districts, to the CBD-2 (RC) classification to provide for Central Business District-Two uses.

Written objections that are filed with the Clerk of the Council shall be heard at such time, or the hearing may be continued from time to time as found necessary by the Council.

PROPOSAL NOS. 363-367, 2009. Introduced by Councillor Smith. Proposal Nos. 363-367, 2009 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on September 10, 2009. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 79-83, 2009, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 79, 2009.

2009-ZON-035

1609 CORNELL AVENUE (Approximate Address)

INDIANAPOLIS, CENTER TOWNSHIP

COUNCIL DISTRICT # 9

BRAD HUFF requests REZONING of 0.115 acre, from the I-3-U District, to the D-8 classification to provide for residential uses.

REZONING ORDINANCE NO. 80, 2009.

2009-ZON-036

4030 VINCENNES ROAD (Approximate Address)

INDIANAPOLIS, PIKE TOWNSHIP

COUNCIL DISTRICT # 1

CP VINCENNES, LLC, by Timothy E. Ochs, requests REZONING of 8.929 acres, from the C-S District, to the C-S classification to provide for educational uses, in addition to the light warehousing and/or office uses permitted by rezoning petition 82-Z-61.

REZONING ORDINANCE NO. 81, 2009.

2009-ZON-039

32 EAST 32<sup>nd</sup> STREET (Approximate Address)

INDIANAPOLIS, CENTER TOWNSHIP

COUNCIL DISTRICT # 9

PROJECT HOME INDY requests REZONING of 0.315 acre, from the D-5 District, to the SU-7 classification to provide for charitable, philanthropic and/or not-for-profit uses.

REZONING ORDINANCE NO. 82, 2009.

2009-ZON-041

7610 WEST 86<sup>th</sup> STREET, 8796 MOORE ROAD, AND 7601 WEST 88<sup>th</sup> STREET

(Approximate Addresses), INDIANAPOLIS, PIKE TOWNSHIP

COUNCIL DISTRICT # 1

FORTUNE ACRES, LLC, by Alexander C. O'Neill, requests REZONING of 46.494 acres, from the D-S District, to the D-A classification to provide for agricultural or low-intensity dwelling uses.

REZONING ORDINANCE NO. 83, 2009.

2009-ZON-043

944 AND 954 EAST WASHINGTON STREET (Approximate Addresses)

INDIANAPOLIS, CENTER TOWNSHIP

COUNCIL DISTRICT # 15

DAVID ZINTEL requests REZONING of 0.248 acre, from the I-3-U District, to the C-3C classification to provide for corridor commercial uses.

### **SPECIAL ORDERS - FINAL ADOPTION**

Councillor McQuillen reported that the Municipal Corporations Committee heard Proposal Nos. 313-317, 2009 on September 16, 2009.

PROPOSAL NO. 313, 2009. The proposal, sponsored by Councillor McQuillen, adopts the annual budget for the Indianapolis Airport Authority for 2010. By a 6-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor McQuillen moved, seconded by Councillor Cain, for adoption. Proposal No. 313, 2009 was adopted on the following roll call vote; viz:

*15 YEAS: Cain, Cardwell, Cockrum, Day, Gray, Lewis, Malone, Mansfield, McQuillen, Moriarty Adams, Nyles, Plowman, Scales, Speedy, Vaughn*

*12 NAYS: Bateman, Brown, Coleman, Evans, Hunter, Lutz, Mahern (B), Mahern (D), McHenry, Oliver, Pfisterer, Sanders*

*0 NOT VOTING:*

*2 ABSENT: Minton-McNeill, Smith*

Councillors Lutz and Brown asked for consent to explain their votes. Consent was given. Councillor Lutz said that he is not against the airport but is asking that they put surplus property up for sale so that it can go back on the city's tax rolls to alleviate the burden on Wayne and Decatur Townships. He said that although he has encouraged this, it has not happened and there is lots of bonding for the new terminal and buildings, yet the east end of the airport is in substantial disrepair. He urged the director to get this area into presentable shape to market and get back on the tax rolls. Councillor Brown said that he supported Councillor Lutz, because he has heard this argument over and over again and is hoping these votes will urge some action.

Proposal No. 313, 2009 was retitled FISCAL ORDINANCE NO. 30, 2009, and reads as follows:

PROPOSAL NO. 314, 2009. The proposal, sponsored by Councillor McQuillen, adopts the annual budget for the Capital Improvement Board of Managers for 2010. By a 4-3 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Lutz said that he voted against the proposal in committee but will vote for it this evening, because if they do not pass it, the money for the Indiana Convention and Visitor's Association (ICVA) will not be approved to market their way out of this mess. He said that in not adopting the proposal, they would simply be holding over the budget from last year, and then would be in even worse shape.

Councillor Nytes said that it is important that everyone involved in the operations and facilities of the Capital Improvement Board (CIB) realize that this vote marks the turning point. She said that she hopes next year the budget will look very different in terms of sources and uses of revenue, because they can do better and need a new organizational structure for this. She added that the CIB should be a high priority going forward.

Councillor McQuillen moved, seconded by Councillor Nytes, for adoption. Proposal No. 314, 2009, as amended, was adopted on the following roll call vote; viz:

*17 YEAS: Cain, Cardwell, Cockrum, Day, Lutz, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*  
*10 NAYS: Bateman, Brown, Coleman, Evans, Gray, Hunter, Lewis, Mahern (B), Mahern (D), Oliver*  
*2 ABSENT: Minton-McNeill, Smith*

Councillor Sanders and Hunter asked for consent to explain their votes. Consent was given.

Councillor Sanders said that this is not a CIB bailout, but is really spending tax dollars to bail out 91 counties in the state, because marion County sends more money to the General Assembly than they get back, and until they can look at reforming government funding, they will continually be in this position. She said that the generation of convention revenue is more than ample to fund Marion County with more for the state, and they need to remind the General Assembly of this. She said that they have bailed out the state of Indiana like this for a number of years.

Councillor Hunter stated that he agrees with Councillor Sanders, and that is one of the reasons he voted no. He added that the people on the CIB have been demonized, but they are good people. He said that it is hard for him to be part of a tax increase on hotels, and then turn around and give money to ICVA for marketing. He said that he believes they need to market the facilities but wishes they would take a different approach, and that is why he opposed the proposal.

Proposal No. 314, 2009, as amended, was retitled FISCAL ORDINANCE NO. 32, 2009, and reads as follows:

PROPOSAL NO. 315, 2009. The proposal, sponsored by Councillor McQuillen, adopts the annual budget for the Health and Hospital Corporation for 2010. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor McQuillen moved, seconded by Councillor Cardwell, for adoption. Proposal No. 315, 2009 was adopted on the following roll call vote; viz:

*26 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*  
*1 NAY: Coleman*  
*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 315, 2009 was retitled FISCAL ORDINANCE NO. 32, 2009, and reads as follows:

PROPOSAL NO. 316, 2009. The proposal, sponsored by Councillor McQuillen, adopts the annual budget for the Indianapolis Public Transportation Corporation (IndyGo) for 2010. By a 6-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Bateman said that he is against this proposal because he believes there is wasted revenue and management plays with tax dollars and only provides 80 to 90% of arbitration requests. He said that he believes there is terrible labor management and he falls in favor of labor employees and cannot support the proposal.

Councillor Sanders said that she concurs with Councillor Bateman and is discouraged that the committee did not allow the excess levy and is disappointed in the budgeting for routes and increased health care costs for employees.

Councillor Brown said that he agrees that there are a lot of financial problems and problems with arbitration and this budget is woefully underfunded.

Councillor Plowman said that he is disturbed to hear that there are labor management as he has not heard of any previous to this evening. He said that he previously voted against IndyGo's budget because there were no bus routes to his district, but they have added a route in Franklin Township, and because he sees improvement, he can now support it.

Councillor McQuillen moved, seconded by Councillor Plowman, for adoption. Proposal No. 316, 2009 was adopted on the following roll call vote; viz:

*15 YEAS: Cain, Cardwell, Cockrum, Coleman, Day, Hunter, Lutz, Malone, McHenry, McQuillen, Pfisterer, Plowman, Scales, Speedy, Vaughn*  
*12 NAYS: Bateman, Brown, Evans, Gray, Lewis, Mahern (B), Mahern (D), Mansfield, Moriarty Adams, Nytes, Oliver, Sanders*  
*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 316, 2009 was retitled FISCAL ORDINANCE NO. 33, 2009, and reads as follows:

PROPOSAL NO. 317, 2009. The proposal, sponsored by Councillor McQuillen, adopts the annual budget for the Indianapolis-Marion County Public Library for 2010. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor McQuillen moved, seconded by Councillor Pfisterer, for adoption. Proposal No. 317, 2009 was adopted on the following roll call vote; viz:

*27 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*

0 NAYS:  
2 ABSENT: Minton-McNeill, Smith

Proposal No. 317, 2009 was retitled FISCAL ORDINANCE NO. 34, 2009, and reads as follows:

PROPOSAL NO. 321, 2009. Councillors Pfisterer, Day, Hunter, Speedy, and Vaughn reported that the Administration and Finance, Community Affairs, Metropolitan Development, Parks and Recreation, Public Safety and Criminal Justice and Public Works Committees heard Proposal No. 321, 2009 on various dates since the proposal’s introduction on August 10, 2009. The proposal, sponsored by Councillor Cockrum, adopts the annual budget for the City of Indianapolis and Marion County for 2010. By votes of 7-0 by the Administration and Finance and Metropolitan Development Committees, a 9-0 vote by the Public Works Committee, a 4-0 vote by the Community Affairs Committee, a 4-3 vote by the Parks and Recreation Committee and a 5-2 vote by the Public Safety and Criminal Justice Committee, the Committees reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Lutz made the following amendment:

Mr. President:

I respectfully move to amend Proposal No. 321, 2009, ARTICLE ONE, Section 1.01, by the substitution of NEW language and figures for those that appear in subsection (d) regarding the telecom and video services agency, to read as follows:

**(d) Telecom and Video Services Agency**

	<u>char 1</u>	<u>char 2</u>	<u>char 3</u>	<u>char 4</u>	<u>char 5</u>	<u>TOTAL</u>
Consolidated County Fund	339,110	8,350	138,408	25,715	790	512,373

And amending ARTICLE III, Section 3.01 (a) reducing line 10 by \$154,000 to \$59,660,097 and increasing line 13 by \$154,000 to \$25,091,026.

Councillor Sanders asked what this amendment does. Councillor Lutz said that it essentially reverses the action made by the Administration and Finance Committee adding the salary of the Telecom and Video Services Director back into the budget, even though the Controller had taken it out. He added that these new amounts take into account and leave in place other amendments made by the committee concerning a telecom and video services agency grant.

Councillor Coleman said that he believes the authors of this amendment are playing a political game, and he believes this position needs to be looked into, as to what it does, as he believes it still has an effect. He said that he believes this amendment is instigated by someone with a personal vendetta against Rick Maultra, the current director, and it is not appropriate to use the budget process for a personal agenda to get rid of someone and make someone else happy.

Councillor Sanders said that she agrees with Councillor Coleman and believes this is a shell game to punish an individual for whistle-blowing. She said that she is concerned about the tactic used and this removes transparency from the budget. She said that the budget was introduced and published as a budget without layoffs, but eliminating this position is essentially a layoff. She added that there are functions this director performs on a routine basis, and instead of amending the proposal, the Council should take time in the next six months to re-define that position. She added that the monitoring done by that office supports Marion County taxpayers and she urged Councillors to vote against the amendment.

Councillor Malone said that this was discussed at length in committee and she has concerns about using the budget process to handle human resource issues. She said that there seems to still be value in the position and she believes it should be budgeted.

Councillor Pfisterer said that a lot of allegations are being made as to why this amendment is being offered, but the truth is that the state took over 85% of the function of that director position, and the remaining 15% of those job duties can be handled by the Internal Audit Agency. She said that in a time when every dollar is crucial and priorities need to be set, this is not a personal agenda, but rather supporting the taxpayers by saving \$154,000 and putting it to better use.

Councillor Speedy seconded the motion to amend, and Proposal No. 321, 2009 was amended on the following roll call vote; viz:

*19 YEAS: Bateman, Brown, Cardwell, Cockrum, Day, Evans, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), McHenry, McQuillen, Moriarty Adams, Pfisterer, Plowman, Scales, Speedy, Vaughn*  
*8 NAYS: Cain, Coleman, Gray, Malone, Mansfield, Nytes, Oliver, Sanders*  
*2 ABSENT: Minton-McNeill, Smith*

Councillor Sanders moved to amend the City-County Council's budget, reducing Character 03 by \$290,000, and the Department of Parks and Recreation's budget by increasing the Parks General Fund appropriation in Character 01 by \$200,000 and in Character 04 by \$90,000. She said that the \$290,000 is money budgeted for redistricting and she believed statutorily that any exercise done with regard to redistricting will have to be repeated in 2011, and this money is being wasted if spent in 2010.

Councillor Vaughn asked the General Counsel, Robert G. Elrod, to comment on Councillor Sanders' interpretation of the Code with regard to redistricting. Mr. Elrod said that the statute allows that the Council can redistrict at any time, except for the period right before an election. They must redistrict after the 2010 census is completed and yet be done before the elections in 2011, so this does not leave much time. He added that he believes there is a mathematical error in Councillor Sanders' written amendment and further amendments need to be added to reflect these change in the appropriations from the Consolidated County and Park General Funds, as well.

Councillor Sanders suggested that the Council as a whole read the statutes, as districts are subject to the 2010 census, which data will not be available until the spring of 2011. Therefore, expending dollars in 2010 will have to be repeated in 2011, and this is inappropriate. Councillor Plowman said that he does not understand Councillor Sanders' reasoning, as they will still be spending the money and will not be saving it. Councillor Sanders said that they will be spending it, but not spending it frivolously. Councillor Plowman added that the Parks and Recreation Committee already put all but \$200,000 back into salaries for the Parks Department, and there are four positions that were moved to another department, so this additional \$200,000 is not needed. Councillor Sanders said that she believes Parks needs more funding and more manpower.

Councillor Vaughn stated that cutting money out of Character 03 in the Council's budget will cut funding for the pay for two people who found errors in Councillor Sanders' amendment, which seems ironic.

President Cockrum passed the gavel to Vice President Vaughn. Councillor Cockrum said that they do have to wait until census numbers are done, but the next election happens in 2011, and

the census needs to be done before the primary, and that is why preliminary work needs to take place on redistricting, so that as soon as those census numbers are available, the redistricting can be finished quickly before elections. He said that he opposes the amended. Vice President Vaughn returned the gavel to President Cockrum.

Councillor Mansfield said that candidates have to file much further in advance than the primaries, and it seems a lot of jockeying is going around, expending money in 2010 without all the facts would be throwing it away and makes no sense.

Councillor Brown stated that based on the General Counsel's opinion, the Council should not fund his salary. He said that redistricting in 2010 without data is a huge waste of taxpayers' money.

Councillor D. Mahern stated that he does not believe redistricting should cost this amount of money, as the state does multiple times this amount and a larger area with nowhere near the amount of money spent.

President Cockrum passed the gavel to Vice President Vaughn. Councillor Cockrum stated that with the last redistricting, a half million dollars was spread between the two caucuses. That redistricting plan was appealed and went to the Supreme Court. He said that most of that money was spent on that lawsuit, and he is not sure what the redistricting will actually cost. Vice President Vaughn returned the gavel to President Cockrum.

Councillor D. Mahern said that the political make-up was different then, and there were different parties in charge of the Mayor's Office and Council. He said that it is not prudent to spend more than what the state pays to redistrict for a significantly larger population.

Councillor Sanders' amendment failed on the following roll call vote; viz:

*13 YEAS: Bateman, Brown, Evans, Gray, Lewis, Mahern (B), Mahern (D), Mansfield, Moriarty Adams, Nytes, Oliver, Plowman, Sanders*  
*14 NAYS: Cain, Cardwell, Cockrum, Coleman, Day, Hunter, Lutz, Malone, McHenry, McQuillen, Pfisterer, Scales, Speedy, Vaughn*  
*2 ABSENT: Minton-McNeill, Smith*

Councillor Nytes moved to insert the budgets for the County Administrator into the County Auditor's budget and the budget for the County Commissioners into the County Treasurer's budget. She said that this amendment does not change any spending within these agencies, but simply eliminates two extra sets of budgets that the other offices have been tracking for years, and it does not make sense to maintain these entities as separate budgets. Councillor Pfisterer seconded the amendment.

President Cockrum asked Chief Financial Officer James Steele his opinion on this action. Mr. Steele said that it makes sense to him and he supports it. The motion to amend carried on the following roll call vote; viz:

*25 YEAS: Bateman, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*  
*0 NAYS:*  
*2 NOT VOTING: Brown, Mahern (D)*  
*2 ABSENT: Minton-McNeill, Smith*

Councillor Mansfield moved, seconded by Councillor Moriarty Adams, to divide the question and vote on the Parks and Recreation portion separately from the rest of Proposal No. 321, 2009. The motion carried by a voice vote. The Parks and Recreation portion of Proposal No. 321, 2009 was adopted on the following roll call vote; viz:

*16 YEAS: Cain, Cardwell, Cockrum, Day, Hunter, Lutz, Malone, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Scales, Speedy, Vaughn*  
*11 NAYS: Bateman, Brown, Coleman, Evans, Gray, Lewis, Mahern (B), Mahern (D), Mansfield, Oliver, Sanders*  
*2 ABSENT: Minton-McNeill, Smith*

Councillor Oliver said that he has concerns about taking money from jail beds and putting it into pensions. He said that City Controller David Reynolds gave his personal views, but it is sending a mixed signal to the community at large that they are prohibiting the sheriff from doing his job and safeguarding prisoners.

Councillor Sanders said that she does not see the \$4 million that was promised from the public safety tax distribution for crime prevention grants. She said that she understands that the Office of Finance and Management (OFM) is now going to oversee that grant program and asked where that money is budgeted. Councillor Vaughn said that OFM will manage the process, but he believes the grants are included in the public safety budget. Mr. Reynolds stated that the crime prevention grants come out of the County General Fund. The public safety tax goes into the County General Fund as revenue, and the information provided to Councillors was the distribution from that fund. He said that they are effectively not using public safety tax revenues to provide funding on crime prevention grants. Councillor Sanders asked why they are not using, even though when that tax was passed, they committed to using it for crime prevention. Mr. Reynolds said that this may have been the rhetoric expressed at the time by the former administration and former Council, but the actual ordinance does not specify that. Councillor Sanders asked if nothing was spent in 2008, \$4 million in 2009, and now \$4 million budgeted for 2010. She said that this is just a little over half of what was committed. Mr. Reynolds said that \$5 million was spent in 2008, but carried over and actually distributed in 2009. Councillor Sanders said that only \$4 million of that was actually spent on crime prevention and \$1 million went to administrative costs. Mr. Reynolds said that the amendment to use some of that money for administration costs for the evaluation of grants was authorized by this Council. Councillor Sanders said that when that public safety tax was passed, they determined what it would support, and it is not supporting that and she would like to know where the other \$7 million is. She asked what agency benefitted from that revenue. Councillor Vaughn said that every public safety and criminal justice agency benefitted from that revenue source.

Councillor Gray asked if they are not going to spend \$15 million on crime prevention and are instead putting it into other departments. Councillor Vaughn said that some of those funds will go into other areas as needed. Councillor Gray said that this was not the intent when that tax was passed.

Councillor Bateman said that he believed a portion was to go to crime prevention and no other agency could use that. Councillor Vaughn said that this issues was discussed at length in committee. He added that one of the main reasons he voted against the tax as proposed under the last administration is because the ordinance did not say how that tax would be spent. He said that if a Council member voted because they believed they were committing \$15 million to crime prevention, they should have ensured that it was written into the ordinance.

Councillor Mansfield moved, seconded by Councillor Moriarty Adams, to vote on the Public Safety and Criminal Justice portion of Proposal No. 321, 2009 separately. The motion carried on the following roll call vote; viz:

*26 YEAS: Bateman, Brown, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*  
*1 NAY: Cain*  
*2 ABSENT: Minton-McNeill, Smith*

Councillor Pfisterer said that the Sheriff is fine with the way the pension is being handled, as was testified in committee. Councillor Sanders said that she cannot speak for the Sheriff, but he is an elected official whose budget is dependant on the passage of the budget by this Council, and he has expressed concerns about cuts to his budget.

Councillor Nytes said that this Council worked for 12 years to get enough jail beds to ease overcrowding and comply with judicial mandates. Councillor Vaughn said that the issue was addressed with the pension board and representatives from the Sheriff's Department. He said that they were hampered by the mechanical restraints of published budgets, and it was a priority judgment. He said, at the time, they believed the commitment to funding the pension was higher than funding a potential need for beds which may or may not be needed, with a caveat to achieve efficiencies on jail bed numbers. He added that they have been monitoring jail beds daily and can determine how to provide additional jail beds if the need arises for them. He said that if the need does arise, there is a commitment from OFM to find funding through underspending or other budget areas to fund those beds.

Councillor Hunter said that the original commitment for these public safety dollars was written as a general ordinance and there was no fiscal ordinance directing where the money was going. He said that such a general ordinance had no teeth with regard to how or where the money is spent, and they should look at these things when submitting ordinances.

Councillor D. Mahern said that the largest percentage of employees who do not fit under the 1977 ordinance are not sworn officers. He added that too many city-county employees do not fall under the policy of residency within Marion County and they need to consider starting to enforce this policy so that tax dollars stay in Marion County.

Councillor Gray said that this is difficult to support, when the administration does not want to spend money on crime prevention but wants to buy more jail beds.

Councillor B. Mahern said that he appreciates Councillor Hunter's clarification between ordinance types, but the public does not look at technicalities and only looks at intention. He said that all areas of the county are affected by crime, and prevention is the key.

Councillor Coleman stated that he worked in the jail and it seems there has been a mismanagement of funds, with the commissary fund being used as a piggy bank for far too long. He said that they used those monies to purchase vehicles last year and this year, and never asked the Council for approval. Although the law allows them to do that, they then expect the Council to approve additional expenditures for increased maintenance and fuel costs. He said that new vehicles are not warranted when the Sheriff does not have any road patrols anymore and their

only duty is to care for the jail. He said that this is why he could not support the public safety portion of the budget.

Councillor Hunter said that although Councillor B. Mahern sees his comments as a technical issue, he views it as a learning experience for the new Council, as most of this body was not on the Council at the time this ordinance was passed.

Councillor Brown said that it was not simply rhetoric, and it was the intent of this body to do something on the front end to prevent crime, and that is the way it was sold to the public. How the current administration and body interprets it is up to them, and it was evidently an error to trust that they would continue with something proactive and positive.

Councillor B. Mahern said that he was not on the Council at the time, but as a private citizen, he was not looking at technicalities and believes most citizens would agree that the bottom line is that this increase was intended for crime prevention.

Councillor Bateman said that he is disappointed they would use a technicality and mislead the public. He said that many neighborhoods could use crime prevention programs and funds, and he is disappointed in this body.

Councillor Oliver said that he was a part of the Council that approved that public safety tax, and the intent was to add more courts, raise salaries of prosecutors and public defenders, as well as dedicate funds to crime prevention. He said that crime went down in Indianapolis because of it and it should be used as it was intended.

Councillor Cain said that she was there when the tax increase was approved, and there was nothing in writing as to how the funds were to be spent, which was one of the main reasons those who opposed the ordinance voted against it. She said that the road to hell is paved with good intentions, and if intentions are strong enough, they need to get them in writing. She said that the public obviously did not rely on intentions and spoke strongly at the ballot box.

Councillor Vaughn moved, seconded by Councillor Pfisterer, to adopt the Public Safety and Criminal Justice portion of Proposal No. 321, 2009. The motion carried on the following roll call vote; viz:

*15 YEAS: Brown, Cain, Cardwell, Cockrum, Day, Hunter, Lutz, Malone, McHenry, McQuillen, Pfisterer, Plowman, Scales, Speedy, Vaughn*  
*12 NAYS: Bateman, Coleman, Evans, Gray, Lewis, Mahern (B), Mahern (D), Mansfield, Moriarty Adams, Nytes, Oliver, Sanders*  
*2 ABSENT: Minton-McNeill, Smith*

Councillors Sanders, Moriarty Adams and Brown asked for consent to explain their votes. Consent was given. Councillor Sanders said that the administration should be thankful the budget was split up into different votes or there would not be a passed budget. Councillor Moriarty Adams said that this is the first time in 21 years she has voted against a public safety budget, but she was not comfortable with the changes to the Sheriff's budget, as it unravels the overcrowding process put in place to solve a problem. Councillor Brown said that he voted in favor of funding pensions, and trusts Controller Reynolds' commitment and word that he would find the funds for jail beds if necessary. He said that crime prevention grants are funded for another year, even though not as much as intended.

September 21, 2009

Councillor Vaughn moved, seconded by Councillor Lutz, for adoption on the remainder of Proposal No. 321, 2009. The remainder of Proposal No. 321, 2009, as amended, was adopted on the following roll call vote; viz:

*19 YEAS: Brown, Cain, Cardwell, Cockrum, Day, Hunter, Lutz, Mahern (B), Mahern (D), Malone, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Scales, Speedy, Vaughn*  
*8 NAYS: Bateman, Coleman, Evans, Gray, Lewis, Mansfield, Oliver, Sanders*  
*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 321, 2009, as amended, was retitled FISCAL ORDINANCE NO. 35, 2009, and reads as follows:

PROPOSAL NO. 332, 2009. Councillor Pfisterer reported that the Administration and Finance Committee heard Proposal No. 332, 2009 on September 8, 2009. The proposal, sponsored by Councillors Cockrum, Sanders and Malone, approves a property tax installment payment plan for certain taxpayers with a homestead deduction. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Pfisterer moved, seconded by Councillor McHenry, for adoption. Proposal No. 332, 2009 was adopted on the following roll call vote; viz:

*24 YEAS: Bateman, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Sanders, Scales, Speedy, Vaughn*  
*0 NAYS:*  
*3 NOT VOTING: Brown, Mahern (D), Plowman*  
*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 332, 2009 was retitled GENERAL RESOLUTION NO. 24, 2009, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 24, 2009

A PROPOSAL FOR A GENERAL RESOLUTION approving a Property Tax Installment Payment Plan for certain Taxpayers with a Homestead Deduction.

WHEREAS, I.C. 6-1.1-22-9.5 authorizes the County Treasurer, with the approval of the County Auditor, and the City-County Council to petition the Indiana Department of Local Government Finance (DLGF) to approve a schedule of installment payments of real property taxes for certain real estate parcels with a Homestead Credit; and

WHEREAS, the County Treasurer has developed an Installment Tax Payment Agreement to allow eligible taxpayers to pay their real property taxes in more than two installments as required by I.C. 6-1.1-22-9(a); and

WHEREAS, a copy of the proposed Petition to the DLGF is attached, and taxpayers would have to meet the criteria listed on the petition; and

WHEREAS, the County Treasurer will require eligible taxpayers to sign an Installment Tax Payment Agreement for taxes first due and payable in 2008 pay 2009 tax cycle; and

WHEREAS, the City-County Council approves and recommends the petition to the DLGF to approve the proposed Installment Tax Payment Agreement; now therefore:

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

SECTION 1. The City-County Council approves and recommends the Petition to DLGF.

SECTION 2. The City-County Council joins the County Auditor and the County Treasurer in requesting the Indiana Department of Local Government Finance approve the proposed Petition.

SECTION 3. This Resolution shall be in full force and effect upon adoption and compliance with I.C. 36-3-4-14.

PROPOSAL NO. 333, 2009. Councillor Pfisterer reported that the Administration and Finance Committee heard Proposal No. 333, 2009 on September 8, 2009. The proposal, sponsored by Councillor Vaughn, amends the Code to increase the surety bond amounts of certain county officials, as necessitated by recent statutory amendments. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Pfisterer moved, seconded by Councillor Day, for adoption. Proposal No. 333, 2009 was adopted on the following roll call vote; viz:

24 YEAS: *Bateman, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Sanders, Scales, Speedy, Vaughn*

0 NAYS:

3 NOT VOTING: *Brown, Mahern (D), Plowman*

2 ABSENT: *Minton-McNeill, Smith*

Proposal No. 333, 2009 was retitled GENERAL ORDINANCE NO. 94, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 94, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to increase the surety bond amounts of certain county officials, as necessitated by recent statutory amendments.

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

SECTION 1. Section 293-3 of the "Revised Code of the Consolidated City and County" (as amended by G. O. No. 44, 2009) regarding surety bonds for city and county officials, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 292-3. Surety bonds for city and county officials.**

(a) It is hereby declared to be the purpose of this section to fix the amounts of individual surety bonds and authorize a blanket bond for city and county officials.

(b) Pursuant to IC 5-4-1-18(c), the City-County Council of Indianapolis and Marion County fixes the amount of surety bonds for city and county officials as follows:

Official	Bond Amount
County coroner	\$ <del>8,500.00</del> <u>15,000.00</u>
Supervisor Barrett law	60,000.00
City controller	300,000.00
County treasurer	300,000.00
County treasurer (ex officio city treasurer)	300,000.00
County surveyor	<del>8,500.00</del> <u>15,000.00</u>
County assessor	<del>8,500.00</del> <u>15,000.00</u>
County auditor	300,000.00

September 21, 2009

County clerk	300,000.00
County recorder	60,000.00
County sheriff	90,000.00
County prosecutor	<del>8,500.00</del> 15,000.00

(c) Pursuant to IC 5-4-1-18(b), the city-county council authorizes the purchase of blanket bonds to cover the faithful performance of city and county officials not covered by individual bonds. The amount of these blanket bonds shall be left to the discretion of the corporation counsel.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

PROPOSAL NO. 335, 2009. Councillor Speedy reported that the Community Affairs Committee heard Proposal No. 335, 2009 on September 15, 2009. The proposal, sponsored by Councillor Sanders, amends the Code with respect to expenditures from the Marion County Children's Guardian Home Donation and Cash Change Funds. By a 4-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Speedy moved, seconded by Councillor Sanders, for adoption. Proposal No. 335, 2009 was adopted on the following roll call vote; viz:

24 YEAS: Bateman, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn  
0 NAYS:  
3 NOT VOTING: Brown, Gray, Mahern (D)  
2 ABSENT: Minton-McNeill, Smith

Proposal No. 335, 2009 was retitled GENERAL ORDINANCE NO. 95, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 95, 2009

A PROPOSAL FOR A GENERAL ORDINANCE amending Chapter 135, Article II, Division 5, of the Revised Code of the Consolidated City and County, respecting expenditures from the Marion County Children's Guardian Home's Donation Fund and Cash Change Fund.

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

SECTION 1. Sec. 135-255 (c) of the "Revised Code of the Consolidated City and County," is hereby amended by deleting the language that is stricken-through, to read as follows:

**Sec. 135-255. Marion County Children's Guardian Home Donation Fund.**

(a) There is hereby created a special fund, to be designated and known as the "Marion County Children's Guardian Home donation fund," in the office of the Marion County Children's Guardian Home

(Guardian Home). This fund shall be a continuing, nonreverting fund, with all balances remaining therein at the end of each year. Such balances shall not lapse into the county general fund, or ever be directly or indirectly diverted in any manner to uses other than those stated in this section.

(b) All donations made to the Guardian Home, unless there are specific legal restrictions stated in the donation that it is not to be commingled with county funds, shall be deposited in the Marion County Children's Guardian Home Donation Fund.

(c) The fund shall be administered by the Guardian Home and all donations deposited therein shall be used for the benefit of ~~the children residing at~~ the Guardian Home. Expenditures from this fund shall be made without appropriation.

(d) No less than quarterly financial reports shall be prepared by the Director of the Guardian Home and be reviewed by the Marion County Board of Commissioners.

SECTION 2. Sec. 135-851, Chapter 135, Division 5, of the "Revised Code of the Consolidated City and County," is hereby amended by deleting the language that is stricken-through, to read as follows:

**Sec. 135-851. Created.**

Pursuant to IC 36-1-8-3, the council hereby establishes a petty cash change fund in the amount of Three Thousand, Five Hundred Dollars (\$3,500) to be placed in the custody of the Marion County Children's Guardian Home Director, or his or her designee. The petty cash change fund shall be used by the Marion County Children's Guardian Home to make purchases to benefit ~~the children residing in~~ the guardian home.

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

PROPOSAL NO. 336, 2009. Councillor McQuillen reported that the Municipal Corporations Committee heard Proposal No. 336, 2009 on September 16, 2009. The proposal, sponsored by Councillor McQuillen, authorizes an excessive levy appeal for the Indianapolis Public Transportation Corporation. By a 6-1 vote, the Committee reported the proposal to the Council with the recommendation that it be stricken.

Councillor Nytes said that she carefully read the minutes of this meeting and found it extremely fascinating that, given the testimony about a dire financial situation and challenges of working to find every penny, the corporation agreed to give up the opportunity to recoup money legally awarded to them in last year's budget process. She said that it seemed pretty clear that IndyGo representatives had been pressured, and she does not know what the discussions were behind the scene, but they need to find every way they can to grow public transportation in this city. She said that this is a very small amount of money for taxpayers, and she feels like this is a short-sighted step and the funding for public transportation needs to be held together until there is a better regional transportation plan.

Councillor McQuillen moved, seconded by Councillor Cardwell, to strike. Proposal No. 336, 2009 was stricken on the following roll call vote; viz:

*15 YEAS: Cain, Cardwell, Cockrum, Coleman, Day, Hunter, Lutz, Malone, McHenry, McQuillen, Pfisterer, Plowman, Scales, Speedy, Vaughn*  
*11 NAYS: Bateman, Brown, Evans, Gray, Lewis, Mahern (B), Mansfield, Moriarty Adams, Nytes, Oliver, Sanders*  
*1 NOT VOTING: Mahern (D)*  
*2 ABSENT: Minton-McNeill, Smith*

PROPOSAL NO. 337, 2009. Councillor McQuillen reported that the Municipal Corporations Committee heard Proposal No. 337, 2009 on September 16, 2009. The proposal, sponsored by Councillor McQuillen, approves the issuance of general obligation refunding bonds for the

September 21, 2009

Indianapolis-Marion County Public Library in an amount not to exceed \$48,000,000. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor McQuillen moved, seconded by Councillor Day, for adoption. Proposal No. 337, 2009 was adopted on the following roll call vote; viz:

*26 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*

*0 NAYS:*

*1 NOT VOTING: Mahern (D)*

*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 337, 2009 was retitled GENERAL RESOLUTION NO. 25, 2009, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 25, 2009

A GENERAL RESOLUTION approving the issuance of: "Indianapolis-Marion County Public Library General Obligation Refunding Bonds (with the series designation based on the year of issuance)" in an original aggregate principal amount not to exceed Forty-Eight Million Dollars (\$48,000,000).

WHEREAS, the Indianapolis-Marion County Public Library (the "Public Library"), has previously issued the Indianapolis-Marion County Public Library General Obligation Bonds, Series 2001, in the original aggregate principal amount of \$19,000,000 and which are currently outstanding in the aggregate principal amount of \$9,715,000 (the "2001 Bonds"); and

WHEREAS, the Public Library has previously issued the Indianapolis-Marion County Public Library General Obligation Bonds, Series 2002A, in the original aggregate principal amount of \$35,000,000 and which are currently outstanding in the aggregate principal amount of \$25,890,000 (the "2002A Bonds"); and

WHEREAS, the Public Library has previously issued the Indianapolis-Marion County Public Library General Obligation Bonds, Series 2003, in the original aggregate principal amount of \$8,000,000 and which are currently outstanding in the aggregate principal amount of \$8,000,000 (the "2003 Bonds"); and

WHEREAS, on August 20, 2009, the Library Board of the Public Library (the "Library Board"), being the governing body of the Public Library, adopted a bond resolution authorizing the issuance of general obligation refunding bonds of the Public Library to be designated as "Indianapolis-Marion County Public Library General Obligation Refunding Bonds (with the series designation based on the year of issuance)," in an original aggregate principal amount not to exceed Forty-Eight Million Dollars (\$48,000,000) (the "Refunding Bonds"), for the purpose of procuring funds (i) to apply to the current and/or advance refunding of all or a portion of the outstanding 2001 Bonds prior to such time as the 2001 Bonds are subject to redemption in order to effect a savings to the Public Library; (ii) to apply to the current and/or advance refunding of all or a portion of the outstanding 2002A Bonds prior to such time as the 2002A Bonds are subject to redemption in order to effect a savings to the Public Library; (iii) to apply to the current and/or advance refunding of all or a portion of the outstanding 2003 Bonds prior to such time as the 2003 Bonds are subject to redemption in order to effect a savings to the Public Library; and (iv) to pay the costs of issuance of the general obligation refunding bonds (sub-paragraphs (i) through (iv) collectively, the "Refunding Program"); and

WHEREAS, the Library Board has requested the approval of the City-County Council of the issuance of said general obligation refunding bonds of the Public Library, pursuant to IC 36-3-6-9(c), and the City-County Council now finds that the issuance of said bonds should be approved; now, therefore:

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

SECTION 1. (a) For the purpose of providing funds for the Refunding Program, the City-County Council does hereby approve the issuance of the Refunding Bonds in one or more series, as general obligation refunding bonds of the Public Library, to be designated as "Indianapolis-Marion County Public Library General Obligation Refunding Bonds (with the series designation based on the year of

issuance),” in an original aggregate principal amount not to exceed Forty-Eight Million Dollars (\$48,000,000), bearing interest at a rate or rates not to exceed six percent (6.00%) per annum and having a final maturity no later than July 1, 2019, with respect to that portion of the Refunding Bonds allocable to the 2001 Bonds, if any, which are part of the Refunding Program, and no later than January 1, 2022, with respect to that portion of the Refunding Bonds allocable to the 2002A Bonds or the 2003 Bonds, if any, which are part of the Refunding Program; provided, however, the net debt service savings of each series of the Refunding Bonds shall be at least three percent (3.00%) of the aggregate 2001 Bonds, 2002A Bonds or 2003 Bonds being refunded with the proceeds of such Refunding Bonds.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14, 36-3-4-15, 36-3-4-16 and 36-3-4-17.

In Councillor Smith’s absence, Councillor Plowman reported that the Metropolitan Development Committee heard Proposal Nos. 338-340, 2009 on September 14, 2009. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 338, 2009. The proposal, sponsored by Councillor Vaughn, amends the zoning ordinance to change the name of the enforcement agency to the new city department of code enforcement and to make grammatical corrections (2009-AO-01). PROPOSAL NO. 339, 2009. The proposal, sponsored by Councillor Vaughn, amends the enforcement and remedies ordinance to change the name of the police department to its official title and to make grammatical corrections (2009-AO-02). PROPOSAL NO. 340, 2009. The proposal, sponsored by Councillor Vaughn, amends the subdivision control ordinance to change the referenced agency name from township assessor to county assessor and to make grammatical corrections (2009-AO-03). By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Plowman moved, seconded by Councillor Vaughn, for adoption. Proposal Nos. 338-340, 2009 were adopted on the following roll call vote; viz:

*25 YEAS: Bateman, Brown, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*  
*0 NAYS:*  
*2 NOT VOTING: Cain, Mahern (D)*  
*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 338, 2009 was retitled GENERAL ORDINANCE NO. 96, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 96, 2009

METROPOLITAN DEVELOPMENT COMMISSION  
DOCKET NO. 2009-AO-01

A GENERAL ORDINANCE to amend portions of the “Revised Code of the Consolidated City and County regarding the zoning ordinances updating department and agency citations, correcting grammatical and spelling errors, and fixing a time when the same shall take effect.

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

WHEREAS, the Mayor of Indianapolis established the Office of Code Enforcement streamlining the City’s licensing, permitting, inspection, and abatement functions into one entity that will become

September 21, 2009

permanently the department of code enforcement with a bureau of license and permit services and a division of inspections; now, therefore:

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

SECTION 1. Sections 730-300 and 730-301 of the "Revised Code of the Consolidated City and County," regarding improvement location permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

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) ~~(4)~~ *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) ~~Specific exemptions.~~ 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 ~~which 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 ~~which 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 ~~which 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 ~~which 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 ~~Commission~~ 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:

*Journal of the City-County Council*

- 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 ~~division of compliance~~ bureau of license and permit services.
    2. Evidence of the applicant's submission of a required drainage plan to the ~~division of compliance~~ 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 ~~division of compliance~~ 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 ~~division of compliance~~ 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 ~~division of compliance~~ 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 ~~division of compliance~~ bureau regarding drainage, and the administrator, upon consultation with the ~~division of compliance~~ bureau, determines that proceeding with construction would not result in a hazard to the public health, safety or general welfare.

SECTION 2. Section 730-307 of the "Revised Code of the Consolidated City and County," regarding

improvement location permits, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

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

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

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

(b) *Definitions.*

*Administrator.* Administrator of the ~~division of compliance~~ bureau of license and permit services or ~~his/her~~ 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.

~~*Division of compliance.* The Division of compliance of the Department of Metropolitan Development.~~

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

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

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

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

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

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

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

*Shed.* A freestanding, completely enclosed, accessory building, designed and intended for the storage of personal property solely of the occupants of the primary use on the lot (see also mini-barn).

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

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

SECTION 3. Section 730-501 of the "Revised Code of the Consolidated City and County," regarding

definitions used in the enforcement and remedies ordinance, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 730-501. Definitions.

As used in this article, the following words and phrases shall have the meanings ascribed to them in this section.

(1) *Administrator* means the ~~Administrator of the Division of compliance of the Department of Metropolitan Development of the Consolidated City of Indianapolis~~ bureau of license and permit services.

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

(2) *Designated enforcement entity* means the Metropolitan Development Commission of Marion County, Indiana.

*Division of inspections* means the division of inspections of the department of code enforcement.

(3) *Inoperable motor vehicle* means:

a. (1) A motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle from which has been removed engine, transmission or differential parts or that is otherwise partially dismantled or mechanically inoperable; or

b. (2) Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, which cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

(4) *Inspectors* means employees of the division of ~~compliance~~ inspections authorized by the Administrator to enter, examine and survey all lands within Marion County to accomplish the enforcement of all zoning ordinances and land use regulations of Marion County.

(5) *Land use petition* means a rezoning petition, variance petition, approval petition, special exception petition, or any other petition permitted by the rules of procedure adopted by the Metropolitan Development Commission of Marion County or the Metropolitan Board of Zoning Appeals.

(6) *Law enforcement officer* means any sworn member of the Marion County Sheriff's Department, Indianapolis Metropolitan Police Department, Beech Grove Police Department, Lawrence Police Department, Southport Police Department, Speedway Police Department, or Cumberland Police Department, acting within their legal authority and jurisdiction.

(7) *Site improvement* means the erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing or remodeling of any new or existing structure or any part thereof; any activity for which an improvement location permit is required.

(8) *Zoning districts* mean the districts depicted by the comprehensive zoning maps of Marion County, Indiana.

SECTION 4. Section 731-200 of the "Revised Code of the Consolidated City and County," regarding general dwelling district zoning regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 731-200. General dwelling district regulations.

The following regulations shall apply to all land within the dwelling districts.

(a) After the effective date of this ordinance:

(1) With the exception of legally established nonconforming uses, no land, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this ordinance. Signs, however, are regulated by Chapter 734 of this Code.

(2) A lot may be divided into two (2) or more lots, provided that all resulting lots and all buildings thereon shall comply with all of the applicable provisions of the Dwelling Districts Zoning Ordinance of Marion County. If such a lot, however, is occupied by a nonconforming building, such lot may be subdivided provided such subdivision does not create a new noncompliance or increase the degree of noncompliance of such building.

- (3) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this ordinance with the exception of signs, which are regulated by Chapter 734 of this Code, and of the following provisions:
- a. *Restoration of legally established nonconforming uses, structures, buildings.* Legally established nonconforming uses and structures or buildings may be restored to their original dimensions and conditions if damaged or partially destroyed by fire or other disaster provided the damage or destruction does not exceed two-thirds (2/3) of the gross floor area of the building, structure or facilities affected; except, however, all land within any flood control district shall, also, be subject to the requirements of section 735-300 through section 735-310 of this Code.
  - b. *Discontinuation of nonconformity.* The lawful nonconforming use or occupancy of any lot, in a dwelling district, existing at the time of the effective date of this ordinance, may be continued as a nonconforming use, but if such nonconforming use is discontinued for one (1) year, any future use or occupancy of said land shall be in conformity with the provisions of this ordinance.
  - c. *Legally established nonconforming uses; public schools.* Any legally established nonconforming use public elementary, middle, junior high or high school (including any structures, facilities and parking areas accessory thereto) may be converted, enlarged, extended, reconstructed or relocated for such public school use on the same lot or parcel as it existed on August 8, 1966, provided such school building, structure, facilities and parking area shall conform to the minimum yard and setback requirements of the applicable dwelling district.
  - d. *Yard setback exceptions:*
    1. *Established front setback exception/averaging.* In any block in which an existing front yard depth and setback is established (by existing legally established buildings within a Dwelling District) for more than twenty-five (25) percent of the linear frontage of the block (or a distance of two hundred (200) linear feet in either direction, whichever is the lesser), the minimum required front yard depth and setback for any new building or structure shall be the average of such established front yards if such dimension is less than the minimum required minimum front setback established by this ordinance.
    2. *Expansion along an existing, legally established nonconforming front setback line.* The minimum required front setback in any Dwelling District for any existing building, having a legally established front setback ~~which that~~ is less than the required setback of the district, shall be modified to permit expansion of such building along its existing established front setback, provided that:
      - i. Only a one-time expansion along the legally established nonconforming front setback line shall be permitted; and
      - ii. The linear front footage of expansion does not exceed fifty (50) percent of the linear front footage of the original building, and all other requirements of this ordinance are maintained for the expansion. Provided: For both 1. and 2. above, however, in no case shall a building or structure:
        1. Encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana;
        2. Encroach upon any existing right-of-way; or
        3. Encroach into a clear sight triangular areas, as required in section 731-221(c)(1).
    3. *Side and rear yard setback exceptions.* The minimum side and rear yard setback requirements of the D-S, D-1, D-2, D-3, D-4, D-5, D-5II, and D-8 (for a lot containing a single or a two-family dwelling unit) Districts shall be subject to the following:
      - i. *Primary buildings:* The primary building may be enlarged or extended along a legally established nonconforming side yard between the established front setback line and the established rear setback line of the primary building provided that the linear footage of such enlargement or extension: a. does not exceed fifty (50) percent of the linear footage of the primary building along that side setback line, or b. be a one-time only expansion along the legally

established setback line.

ii. *Detached accessory buildings.*

1. Legally established, detached, accessory garages may be reconstructed on an existing foundation, even though such reconstruction would not comply with required side or rear yards.
  2. An accessory building may be enlarged or extended along a legally established nonconforming side or rear yard provided that the linear footage of such enlargement or extension: a. does not exceed fifty (50) percent of the linear footage of the accessory building along that side or rear setback line; b. be a one-time only expansion along the legally established setback line; and, c. such enlargement or extension shall not encroach into any required yard other than the existing nonconforming side or rear yard along which the enlargement or extension is occurring.
- e. *Lot area, lot width exception.* Any lot recorded or any platted lot recorded prior to the adoption of this ordinance, having less than the minimum lot area or minimum lot width required by the applicable dwelling district regulations of this ordinance for a single-family dwelling, shall be deemed an exception to such minimum lot area and lot width requirement, and a single-family dwelling may be constructed thereon provided all other requirements of this ordinance, including minimum yard and setback requirements, shall be maintained.
- f. *Reserved.*
- g. *D-6 and D-6II district single-family exception.* In the D-6 and D-6II districts, a single- or two-family dwelling, including accessory structures, may be constructed, erected, enlarged, extended, or reconstructed on any platted lot recorded prior to the adoption of this ordinance ~~which that~~ was specifically platted for single-family dwelling purposes. Such development shall be in accordance with the approved plat, any restrictions thereof, and any commitments resulting from the rezoning of such lot.
- (4) The front, side and rear setback and minimum front, side and rear yard requirements of all dwelling zoning districts shall be subject to the following exception for all land within the Town of Meridian Hills, Indiana: The required front, side and rear setback and minimum front, side and rear yard requirements applicable to all land within the Town of Meridian Hills, Indiana, however presently zoned, shall be not less than the standards of the class R-1, R-2, and R-3 area districts, respectively, previously applicable thereto as said land was formerly zoned, in accordance with the Meridian Hills Zone Map and section 12 of the Zoning Ordinance of the Town of Meridian Hills, Indiana, General Ordinance No. 1, 1946, prior to the effective date of the comprehensive Dwelling Districts Zoning Ordinance of Marion County, Indiana, Ordinance 66-AO-2, which rezoned and reclassified said land. (Said Zoning Ordinance of the Town of Meridian Hills, Indiana, section 12 and Meridian Hills Zone Map, adopted by the Marion County Council March 28, 1957, as a part of Marion County Council Ordinance No. 8-1957, are hereby incorporated herein by reference).
- (5) *Secondary means of escape.* Any secondary means of escape ~~which that~~ includes, but is not limited to, fire escapes or similar emergency accesses, shall be located on the rear or side facades of the building or structure. In the case of a building or structure located on a corner lot, the secondary means of escape shall not be located on the facade of any building or structure ~~which that~~ has frontage along a public or private street.
- (6) *Side yard setback; zero (0) lot line option.* The minimum side yard setback requirements of the D-S, D-1, D-2, D-3, D-4, D-5, and D-5II zoning districts shall be subject to the following exceptions: Any plat of a subdivision submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce the minimum side yard requirement for one (1) side yard of each lot to zero (0) feet provided that:
- a. A minimum distance of ten (10) feet shall be required and maintained between all buildings on adjacent lots; and,
  - b. No windows or doors shall be provided or maintained on that portion of the structure ~~which that~~ reduces the required side yard by use of this exception; and,
  - c. The aggregate side yard(s) is provided on the lot according to the applicable dwelling district regulations; and,
  - d. An easement, providing for the continual maintenance of that portion of the structure

~~which~~ that reduces the required side yard by use of this exception, is provided, recorded and maintained.

- (7) *Exceptions to dwelling district development standards for the development of cluster subdivisions.* In any plat of a subdivision recorded after January 1, 1990, in the D-S, D-1, D-2, D-3 and D-4 zoning districts the following exceptions shall apply. Any subdivision, the plat of which is submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, may be developed as a cluster subdivision in accordance with the following:
- a. *Purpose.* Cluster subdivisions are intended to allow greater flexibility in design and development of subdivisions, in order to produce innovative residential environments, provide for more efficient use of land, protect topographical features, and permit common area and open space. To accomplish this purpose, the following regulations and exceptions shall apply only to cluster subdivisions.
  - b. *Exceptions to dwelling district development standards.* Exceptions to the development standards relating to the subdivision's lot size, shape and dimensions may be permitted for individual lots within a cluster subdivision, as follows:
    1. *Project area (minimum size of subdivision).* There shall be a minimum of five (5) acres required for the development of a cluster subdivision. The tract of land to be developed shall be in one (1) ownership or shall be the subject of an application filed by the owners of the entire tract. The tract shall be developed as a unit and in the manner approved.
    2. *Project density.* The overall maximum density of the proposed cluster subdivision shall remain the same as that permitted by developing the same site area into developable lots in full compliance with the applicable underlying dwelling district regulations and the Subdivision Control Ordinance of Marion County, Indiana.
    3. *Sewers.* Attachment to public or semipublic water and sanitary sewer facilities shall be mandatory for development in any cluster subdivision with a minimum lot area of less than twenty-four thousand (24,000) square feet.
    4. *Area, width, setback, and open space for individual lots.* Individual lots in a cluster subdivision are exempt from the following development standards of the applicable dwelling district:
      - i. Minimum lot area.
      - ii. Minimum lot width.
      - iii. Minimum lot width at setback.
      - iv. Minimum side and rear yard setback regulations. Minimum side and rear yard setback regulations may be modified by the following:

Setback from any subdivision boundary property lines: Twenty (20) feet.

The minimum rear yard setback: Fifteen (15) feet.

The minimum side yard setback shall have a minimum depth in accordance with section 731-200(a)(6), Side yard setback; zero (0) lot line option, with the exception that provision 200 (a)(6)c. shall not apply when utilizing the cluster subdivision exception.
      - v. The minimum street frontage. Minimum street frontage may be reduced to fifteen (15) feet provided, however, that each individual lot shall have direct access to a public street; and,
      - vi. Minimum open space. Individual cluster lots shall have a minimum open space of fifty (50) percent.
    5. *Project open space.* The amount of permanent open space created by the development of the site as a cluster subdivision shall be equivalent to, or more than, the total reduction in lot sizes. At least seventy-five (75) percent of the total amount of open space shall consist of tracts of land at least fifty (50) feet wide. The open space created by the development of the site as a cluster subdivision shall be provided in such a manner that it is preserved in its naturally occurring state for passive recreational activities. A subordinate amount of this open space may be developed as a common recreational area. The open space created by the

development of the site as a cluster subdivision shall further be provided in such a manner that it is accessible to residents of the subdivision and for maintenance. The open space shall perpetually run with the subdivision and shall not be developed or separated from the cluster subdivision at a later date. Provisions shall be made for continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge.

c. *Procedures for cluster subdivision approval.*

1. The petitioner shall submit two (2) site plans for the property proposed for a cluster subdivision for review and conceptual design approval by the Administrator prior to filing for plat approval.
  - i. Site plan 1 shall depict the development of the site in full compliance with all use and development standards of the applicable underlying dwelling district and the Subdivision Control Ordinance of Marion County, Indiana. This site plan will be used to determine the maximum number of developable lots possible on the site and set the density of that development.
  - ii. Site plan 2 shall depict the development of the site as a proposed cluster subdivision. The density of the overall development shall be no greater than that permitted by the development of the site depicted in site plan 1.
2. The Administrator shall compare the proposed cluster subdivision with the site plan showing the same site developed in compliance with the applicable dwelling district and determine the appropriateness of cluster design for the site.
3. In determining the appropriateness of cluster design for the site, the Administrator shall look for the following attributes:
  - i. Protection of unique topographical features on the site, including but not limited to slopes, streams, natural water features.
  - ii. Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features.
  - iii. Development of common open space and recreational areas accessible to residents of the subdivision including provisions for walkways and bikeways.
  - iv. Providing a more efficient use of the land.
  - v. Producing innovative residential environments.
  - vi. Minimizing the alteration of the natural site features to be preserved through the design and situation of individual lots, streets, and buildings.
  - vii. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
  - viii. Relationship to surrounding properties, improvement of the view from and of buildings, and minimizing of the land area devoted to motor vehicle access shall be encouraged through the arrangement and situation of individual lots, buildings, and units.
4. The Administrator shall further review the proposed cluster subdivision to ensure that the proposed cluster development will be constructed, arranged, and operated so as not to interfere with the development and use of neighboring property, in accordance with the applicable district regulations, to include any necessary transition along the perimeter of the development with adjacent single-family zoning districts.
5. If upon review, the Administrator, based upon the attributes noted above, determines that the proposed cluster subdivision is not appropriate for the site, the Administrator shall inform the petitioner in writing of the determination. The petitioner may, within five (5) business days, appeal the Administrator's decision by filing an approval petition before the Metropolitan Development Commission.
6. If upon review the Administrator, based upon the attributes noted above, determines that the proposed cluster subdivision is appropriate for the site, the Administrator shall: 1. inform the petitioner in writing of the determination; and, 2. send a copy of that letter to the applicable registered neighborhood organizations. The petitioner

may then proceed with the filing of a preliminary plat before the Plat Committee. The filed plat shall be in substantial compliance with the proposed plat approved by the Administrator. The legal notice for the public hearing of the Plat Committee regarding such a preliminary plat shall indicate clearly that the request is for a cluster subdivision.

- d. *Maintenance of common open space areas.* As a condition of Administrator's approval of the cluster subdivision permitting exceptions to the standard requirements of the applicable zoning district, the petitioner shall submit with the site plan for review and approval documentary assurances that permanent dedication of the open space areas shall be made and that adequate provision(s) is being made for continuous and adequate maintenance of project open space, common areas and recreation areas. Once approved by the Administrator, the documentary assurances shall be filed with the Plat Committee at the time a petition for plat approval is initiated. Further, the documentary assurances shall be incorporated in the plat that is recorded with the Office of the Marion County Recorder. No exceptions to these requirements shall be permitted unless the Plat Committee determines that the petitioner has adequately provided for such upkeep, protection and maintenance of open space, common area or recreational areas through other legally binding perpetual agreements.
- (8) *Requirement for group homes for the mentally ill.* In any Dwelling District, a group home (as defined in section 731-102) for the mentally ill shall be excluded from a residential area if the group home is located within three thousand (3,000) feet of another group home for the mentally ill, as measured between lot lines.
- (9) *Legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969.*
- a. A nonconforming use in a district of the Dwelling District Zoning Ordinance (as adopted by the Metropolitan Development Commission under docket number 66-AO-2) shall be deemed to be legally established (relative to both use and development standards) if the use:
1. Existed prior to April 8, 1969; and
  2. Has continued to exist from April 8, 1969, to the present; and
  3. Has not been abandoned; and
  4. Of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.
- A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.
- b. Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after April 8, 1969, have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.
- c. This subsection 731-200(a)(9) shall:
1. Have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
  2. Not relieve any property of the legal obligation to comply with conditions or commitments ~~which~~ that lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.
  3. Not apply to a property if written records of the:
    - i. Health and Hospital Corporation of Marion County;
    - ii. Fire department having jurisdiction over the property;
    - iii. Local law enforcement agency or agencies having jurisdiction over the

property; or

- iv. Indiana Department of Environmental Management or Department of Natural Resources;

for the twenty-four-month period prior to October 1, 1996, reflect that there has been a significant violation of laws pertaining to public health or safety or ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance) for activities occurring on the property or the condition of the property.

- d. *Definition of significant violation.* For purposes of this provision, a violation is defined to be significant as:
  - 1. Any outstanding violation or three (3) or more separate citations from any of the health and safety agencies referred to in subsection 731-200(a)(9)c.3. of this ordinance; or
  - 2. Any citation or violation of Sections 302, 304, 310, 311, 313, and 701, as amended, of Chapter 10 of the Code of the Health and Hospital Corporation of Marion County, Indiana (Housing and Environmental Standards Ordinance); or
  - 3. One (1) or more convictions of a tenant, owner, or lessee for criminal activities occurring on the property.

(b) All uses established or placed into operation after August 2, 1966, shall comply with the following performance standards. No use in existence as of the effective date of this ordinance shall be so altered or modified as to conflict with these standards.

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

SECTION 5. Section 731-215 of the "Revised Code of the Consolidated City and County," regarding D-11 dwelling district eleven zoning regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 731-215. D-11 dwelling district eleven regulations.

*Statement of purpose.* The D-11 district allows for mobile dwelling project development. The special characteristics of mobile dwellings, as opposed to the characteristics of conventional housing (such as compactness of the mobile dwelling unit, site accommodation requirements, etc.), have been

recognized as requiring special district considerations. The D-11 district is designed to permit mobile and manufactured dwellings in accordance with appropriate standards. This district represents a medium density classification according to the Comprehensive General Land Use Plan and should be applied accordingly. The typical density for a D-11 district is six (6) units/gross acre. With the development standards included in this district, mobile dwelling projects are viable residential developments, and should be located with the same considerations as site-built residential neighborhoods. All public and community facilities are required. Proximity to major thoroughfares are necessary for the location of this district.

(a) *Permitted D-11 uses.* The following uses shall be permitted in the D-11 district. All uses in the D-11 district shall conform to the D-11 development standards (section 731-215(b)) and the dwelling district regulations of section 731-200.

- (1) Mobile dwelling projects, including mobile dwellings and manufactured homes, subject to all development standards of section 731-215(b). Each permitted mobile dwelling within a mobile dwelling project shall be limited to single-family use and occupancy.
- (2) Group homes, as defined in section 731-102 and as regulated in section 731-200(a)(8).
- (3) Religious use, as regulated in section 731-224.
- (4) Temporary uses, as regulated in section 731-218.
- (5) Accessory uses, as enumerated below:
  - a. Manager's office and apartment: Project maintenance equipment storage facility.
  - b. Common recreation and service buildings, structures and areas, including laundry facilities.
  - c. Open storage area.
  - d. Accessory parking areas.
  - e. Carports, canopies, covered patios, storage rooms, mini-barns, porches, awnings, swings and other play structures or equipment, provided the height thereof shall not exceed ten (10) feet measured from the finished mobile dwelling site grade, and that floors of carports, patios, storage rooms and porches shall be of concrete or other permanent pavement.
  - f. Wholesale and retail sales of mobile dwellings conducted as a business by dealers of mobile dwelling project owners/operators shall be prohibited in the D-11 district. Except, however, a mobile dwelling project owner/operator may display not more than six (6) "model" mobile dwellings on mobile dwelling sites in the interior of the project, provided such model units shall not be displayed for sale or removal outside the project; and further provided that no signs relative to the "model" units shall be installed so as to be visible to the public outside the project.
  - g. An incidental model home sign, as regulated in Chapter 734 of this Code, shall be permitted for each "model" mobile dwelling. Provided further, however, nothing contained herein shall restrict the right of any individual owner of any mobile dwelling unit to sell or lease such unit.
  - h. Child care home.

(b) *D-11 development standards.*

- (1) *Project area.* A minimum contiguous project area of fifteen (15) acres with the first phase not less than five (5) acres shall be required. Each contiguous project area shall not exceed one hundred (100) acres. Provided, however, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory for development in this district after January 1, 1990.
- (2) *Maximum project density.* Six (6) units per gross project acre.
- (3) *Combination of lots or portions thereof.* Whenever only a portion of a recorded lot is proposed as a mobile dwelling project or whenever two (2) or more recorded lots or portions thereof are proposed to be combined to form a mobile dwelling project, the proposed mobile dwelling project as shown on the site plan submitted shall be considered to be a newly created single lot, for the purposes of section 731-215(b)(1) of this ordinance, and such newly created lot shall not be reduced in size or divided or split if such reduction, division, or split will result in a lot ~~which that~~ would fail to meet any of the requirements of this section.

- (4) *Minimum project frontage.* Each project shall have at least one hundred fifty (150) feet of continuous frontage on a public street and shall gain direct access from said street. Each project containing over thirty (30) dwelling units shall provide at least two (2) accesses from a perimeter public street.
- (5) *Perimeter yard.*
  - a. A perimeter yard is required for each mobile dwelling project. All parking, buildings, structures, and mobile dwelling sites shall be located so as to provide a setback of at least fifty (50) feet from all perimeter lot lines. This fifty-foot perimeter yard shall be landscaped and shall not be used for anything other than passive open space or a required roadway entrance into the mobile home park. Perimeter yards must be landscaped, screened and maintained according to section 731-221(f), provided, however;
  - b. Where the project abuts public perimeter streets, minimum perimeter front yards shall be sixty (60) feet, measured from the street right-of-way line of a local or collector street, or from the proposed right-of-way line of any primary or secondary arterial as indicated by The Official Thoroughfare Plan for Marion County, as amended.
- (6) *Mobile dwelling sites.*
  - a. Mobile dwelling sites within the project shall be provided for each mobile dwelling in accordance with the following standards:
    1. Each mobile dwelling project shall be divided into mobile dwelling sites.
    2. Each mobile dwelling site shall contain an area of no less than four thousand (4,000) square feet, provided, however;
    3. Each mobile dwelling site, which requires a double or triple wide unit, shall contain an area of no less than five thousand four hundred (5,400) square feet.
- (7) *Minimum interior yards.* Minimum interior yards within the project shall be provided for all mobile dwelling sites in accordance with the following standards:
  - a. A minimum required front building setback of ten (10) feet shall be provided, measured from the curb line of any interior street or interior access drive within the project. Parking spaces shall not be permitted within this required setback; however, driveways accessing parking areas on the site and other appurtenances are permitted.
  - b. A minimum distance of fifty (50) feet shall be provided between any recreational or other project common building and any dwelling unit within the project.
  - c. A minimum distance of twenty-five (25) feet shall be provided between dwelling units at their closest points to each other. Except, however, that any dwelling unit accessory structure, open on at least two (2) sides, may project into such required interior yard provided that the distance between such accessory structure and any other dwelling unit, or between such accessory structures of two (2) dwelling units, shall be at least fifteen (15) feet.
- (8) *Minimum recreational and open space areas.* Developed recreational and common open space areas equal to, at a minimum, eight (8) percent of the total area of the mobile dwelling project shall be required. Land used for the required perimeter yard, mobile dwelling sites, vehicular areas, access easements, and rights-of-way shall not be considered as part of this required eight (8) percent open space. Common open storage areas developed as required in section 731-215(b)(10) shall not be included in the open space computation.
  - a. These recreational and common open space areas shall be accessible to all project residents, appropriately located within the project with respect to the residents they are designed to serve and with regard to adjacent land uses. Accessibility to such areas shall not solely be gained by way of a mobile dwelling site or sites.
  - b. Developed recreational areas may include, but shall not be limited to, such facilities as playgrounds, tot lots, swimming pools, game courts and common recreational buildings. An imaginative approach to the provision and design of such areas is encouraged. Project recreational needs will depend upon such factors as project site, size and the anticipated age characteristics of the residents. These areas shall provide for the use of all project residents and be appropriately located within the project with respect to the residents they are designed to serve and with regard to adjacent land uses.
  - c. Common open space areas are those areas within the project set aside for the common use of all project residents. The general design of these areas should demonstrate an

awareness of their intended use for passive enjoyment. Utilization of common open space areas may be enhanced by improvements such as walkways, meandering trails, benches, flowers, shrubs and tree plantings, while still maintaining their natural open character.

- d. Items such as drainage swales may be included as open space if, through proper design, they add favorably to the open space inventory and site development of the project and do not present a health or safety hazard to project residents.
- e. Off-street pedestrian ways and/or bike paths shall be constructed where necessary to provide safe access to recreational and other service areas. Such off-street pathways shall have a minimum width of three (3) feet and shall have at least a three-foot wide area of open space along the sides of the pathway. All such off-street pathways shall be hard-surfaced.

(9) *Minimum parking area.*

- a. A minimum of two (2) hard-surfaced off-street parking spaces shall be required for each dwelling unit and shall be located on each mobile dwelling site.
- b. One (1) parking space for each two hundred eighty-five (285) square feet or fraction thereof of gross floor area shall be required for the manager's office (not including storage space), and any common recreation structures located within the mobile dwelling project.
- c. Off-street parking areas shall not be permitted in any required interior front yard setback.
- d. Off-street parking facilities shall be provided and maintained in accordance with section 731-221(e)(2)b.

(10) *Storage areas.*

- a. Open storage area: An open storage area shall be provided within the project boundaries for the purpose of storing travel trailers, campers, boats and other recreational vehicles owned by project residents. The open storage area required for the project shall be computed on the basis of one hundred twenty (120) square feet of space per mobile dwelling site. Such open storage areas shall be screened so as not to be directly visible from any perimeter boundary of the project and shall further be accessible to all project residents.

Travel trailers, campers, boats and other recreational vehicles shall be permitted to be stored only in such storage areas, whether temporarily or permanently.

- b. General storage space: In order to provide adequate storage facilities on or conveniently near each mobile dwelling site for the storage of outdoor equipment, furniture, tools, and other materials used only seasonally or infrequently, or incapable of convenient storage within the mobile dwellings, a minimum of one hundred fifty (150) cubic feet of general storage space within a structure per dwelling unit shall be provided on the mobile dwelling site, or in compounds located not more than one hundred (100) feet from each dwelling unit. Each such storage space shall be constructed and located in conformity with the approved site plan required by section 731-215(b)(16). Provided, however, all or a portion of such storage space for any fully skirted mobile dwelling unit may be provided under such unit, in lieu of separate storage facilities.

(11) *Patios and paved stands.* All mobile dwelling sites shall be improved as follows:

- a. Each mobile dwelling site shall contain a patio or deck with an area of no less than two hundred (200) square feet. Such patio or deck shall be constructed of concrete, brick, tile, treated wood or similar material, so as to result in a dustfree and well-drained surface.
- b. Concrete runners, concrete pillars or a paved stand shall be provided to accommodate each mobile dwelling.
- c. An anchoring system (tiedowns) shall be provided, installed and attached to the dwelling upon its placement on the mobile dwelling site to withstand the specified horizontal, uplift, overturning wind forces on a mobile dwelling based upon accepted engineering design standards as required by Regulation HSE 21 of the Indiana State Board of Health.

(12) *Skirting.* No later than thirty (30) days after a mobile dwelling has been placed upon a mobile dwelling site, the area between the bottom of the sides and ends of the mobile dwelling and the surface upon which it is located shall be enclosed by walls made of a visibly opaque skirting

material. Mobile dwellings shall have skirting or other design attachments installed by the mobile dwelling owner ~~which that~~ shall harmonize with the architectural style of the mobile dwelling. Access doors shall be permitted under the mobile dwelling.

(13) *Utilities.*

- a. All utility lines, including but not limited to electric, telephone, water, gas, and cable television lines, shall comply with Underground Utility Line Regulations Ordinance 72-AO-5, as may be amended.
- b. Individual radio and television antennas, not exceeding four (4) feet in height, shall be permitted; or a central system utilizing underground wiring to individual dwelling units and accessory buildings may be installed.

(14) *Maximum height.*

- a. All mobile dwellings, accessory structures and buildings: twenty-five (25) feet.
- b. All management offices, common recreation and service buildings: Thirty-five (35) feet, with the exception of skylights, appurtenances, chimneys or similar structures.

(15) *Streets and sidewalks.*

- a. Public streets, interior access drives, driveways, and off-street parking areas shall be provided in accordance with section 731-221, Special regulations.
- b. Private interior streets, interior access drives and driveways shall be constructed with curbs and gutters and shall otherwise be provided in accordance with section 731-221, Special regulations.

Provided, however, that private interior streets, private interior access drives and private interior access driveways ~~which that~~ have two-way traffic with no parking shall have a minimum pavement width of twenty-four (24) feet, exclusive of curbs or gutters.

- c. Sidewalks shall be installed within each mobile dwelling project in accordance with the following:
  1. Sidewalks are required to be installed on one (1) side of a street with an improved width of twenty (20) feet or less and on both sides of a roadway with an improved width of greater than twenty (20) feet.
  2. All sidewalks shall be hard-surfaced and shall have a thickness of no less than four (4) inches.
  3. Common sidewalks, with a minimum width of three (3) feet, intended to provide pedestrian circulation from one (1) mobile dwelling to another or to various locations throughout the mobile dwelling project shall serve all mobile dwellings and common use areas that front upon or have access from a street improved with curbs and gutters. Such sidewalks shall be located parallel to a street.
  4. A hard-surfaced walkway having a minimum width of three (3) feet connecting the mobile dwelling with its off-street parking area shall be provided.
  5. In addition to those sidewalks required by this section 731-215(b)(15), sidewalks may be placed so that they bisect a block of mobile dwelling sites in order to provide an interior type of common sidewalk circulation system. Such sidewalks shall not be located on any mobile dwelling site. Such sidewalks shall have a minimum width of three (3) feet and shall have at least a three-foot wide area of open space along the sides of the sidewalk. This sidewalk and open space area may be figured into the required minimum recreational and open space area.
  6. A sidewalk with a minimum width of three (3) feet may be provided for access from each mobile dwelling to a street or to a common walkway system.
  7. No portion of any parking space shall encroach upon any portion of a sidewalk.
- d. Sidewalks shall be provided along all eligible public streets, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the administrator. Sidewalks shall consist of the walkway and any curb ramps or blended transitions. Sidewalks constructed pursuant to this section shall comply with sections 731-221(c)(4)a., b., d., and e.

(16) *Project and site plan requirements.* In order that a petition for a D-11 district can be

evaluated, the petitioner shall file with the petition a project orientation map, topographic map and site plan (as specified in paragraphs a., b., and c. ~~which that~~ follow).

In addition to other permit requirements, a landscape plan (as specified in section 731-221, Special regulations) shall be filed with the ~~Division of Development Services~~ bureau of license and permit services of the ~~Department of Metropolitan Development~~ code enforcement and approved by the Administrator thereof prior to the issuance of an Improvement Location Permit.

- a. The orientation map shall include a legal description and delineate the boundaries of the project site; and shall show the location of all the features listed below existing within one (1) mile of the project site.

Public schools

Thoroughfares

Railroads

Fire protection services

Public transportation

Major shopping areas

Public recreational facilities

Other important features ~~which that~~ may affect the planned project

- b. The topographic map shall be drawn to scale, current dated, prepared and signed by a registered land surveyor or civil engineer and shall clearly show the following:

Contours having an interval of two (2) feet,

All existing buildings and other structures or improvements such as walls, fence lines, culverts, bridges, roadways, etc., with spot elevations indicated,

Location and spot elevations of rock outcrops, high points, watercourses, depressions, ponds and marsh areas, with any previous flood elevations as may be determined by survey,

Boundaries of any floodway or floodplain zones or areas subject to periodic inundation,

Size, variety, caliper and accurate location of all existing trees over two and one-half (2 1/2) inch caliper; except within natural vegetation areas (woods, thickets or meadows) that will not be developed, but will be left and maintained as natural areas,

Boundary lines of property and corner monuments,

Soil types; careful attention must be given in the location and construction of mobile dwelling projects to the ability of the soil to support the development,

Location of any test pits or borings if required to determine subsoil conditions,

All easements, rights-of-way and other restrictions.

- c. The site plan, drawn to scale, shall indicate:

Existing and proposed streets, access drives, driveways, interior access drives, sidewalks and pedestrian ways,

All paving and hard-surfacing materials,

Ingress to and egress from the project site to/from perimeter public streets,

Minimum required yards,

Location of all parking, recreational and storage areas,

Individual mobile dwelling sites,

Location of mobile dwelling paved stands,

Mobile dwelling project facilities such as office, laundry, storage and recreation structures,

Location, height and type of screens, walls and fences,

All adjacent properties':

1. Lot lines;
2. Existing land use and zoning classification; and,
3. Approximate location of all existing structures within one hundred (100) feet of the project's property lines;

A legend ~~which that~~ shall include, but not limited to, a listing of the overall acreage; the scale of the plan; gross and net density of lots, spaces or units; percentage and area of open spaces by types, number of spaces, building area of project buildings or structures; parking spaces required and provided, and estimated total population profile.

(17) Existing nonconforming projects.

- a. Conformity with certain standards required. All nonconforming mobile dwelling projects on the effective date of this ordinance:
  1. Shall conform to the development standards and requirements of section 731-221(f)(5) (Special regulations--Grounds maintenance), section 731-215(b)(11)c. (patios and paved stands), and section 731-215(b)(12) (skirting) of this ordinance on or before January 1, 1993, or the use thereof shall be terminated after such date; and,
  2. Shall conform to the development standards and requirements of section 731-221(f) subsections 1. through 4. (Special regulations--Screening, landscaping, lighting) of this ordinance on or before January 1, 1993, or the use thereof shall be terminated after such date.
- b. Plan approval. A plan for each such nonconforming project shall be filed with the Division of Planning of the Department of Metropolitan Development and approved by the Administrator thereof in accordance with the following schedule. Within ninety (90) days after the effective date of this ordinance, a plan shall be filed setting forth a legal perimeter description. The number of mobile dwelling sites, location of streets, light poles, and the existing nature of perimeter landscaping or visual screening shall be indicated. Within three (3) years after the effective date of this ordinance, a plan for compliance or a statement of existing compliance shall be filed setting forth the proposed or existing manner of compliance with section 731-215(b)(17)a. of this ordinance. The project's required development in conformity with provisions of this ordinance specified in paragraph a. above shall be in accordance with such approved plan.

As a part of such plan approval, the Administrator of the Division of Planning shall have power to modify any screening or landscape requirements deemed by the Administrator to be unnecessary, infeasible or unreasonably burdensome.

- c. Appeals. In all subsections of this section where the Administrator is given the authority of discretionary approval of plans and specifications, or the method or manner of qualification, or any other similar authority, any party of interest shall have the right to bring such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval through the filing of an Approval Petition. The right to have such action of the Administrator reviewed by the Metropolitan Development Commission shall be in addition to any other right an aggrieved party may have under law to have such action reviewed, including but not limited to the right to appeal such action to the Metropolitan Board of Zoning appeals of Marion County, Indiana.

SECTION 6. Section 731-221 of the "Revised Code of the Consolidated City and County," regarding special regulations of the dwelling districts zoning ordinance, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 731-221. Special regulations.

(a) *Minimum setback lines and yards.* Front yards, having a minimum depth in accordance with the following setback requirements, shall be provided along all public street right-of-way lines, and the minimum required building setback lines shall be as follows:

- (1) Expressway, parkway or primary thoroughfare (as designated on The Official Thoroughfare Plan of Marion County, Indiana). No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than forty (40) feet to any proposed right-of-way line of an expressway, parkway or primary thoroughfare. In the case

where a proposed right-of-way line does not exist, the existing right-of-way line shall be used for the setback measurement.

- (2) Secondary thoroughfare (as designated on The Official Thoroughfare Plan of Marion County, Indiana). No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than thirty (30) feet to any proposed right-of-way line of a secondary thoroughfare. In the case where a proposed right-of-way line does not exist, the existing right-of-way line shall be used for the setback measurement.
- (3) Collector street. No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than thirty (30) feet to any existing right-of-way line, or sixty (60) feet from the centerline, of a collector street, whichever is greater.
- (4) Local street, marginal access street or cul-de-sac.
  - a. No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than twenty-five (25) feet to any existing right-of-way line of a local street, marginal access street or cul-de-sac, with the exception of the vehicular turnaround thereof. No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than twenty (20) feet to any existing right-of-way line of the vehicular turnaround of a cul-de-sac.

(b) *Attached multifamily dwelling projects, single-family cluster dwelling projects and mobile dwelling projects; site plan requirement to Improvement Location Permit issuance.* Prior to Improvement Location Permit issuance for any building or structure within an attached multifamily dwelling project, single-family cluster dwelling project, or mobile dwelling project, three (3) copies of the site and landscape plans for the entire project shall be filed with the ~~Department of Metropolitan Development~~ bureau of license and permit services of the department of code enforcement. Also, for an attached multifamily dwelling project, the site and landscape plans shall include a delineation of the proposed major livability space.

(c) *Street requirements.*

- (1) *Clear sight triangular area.* The following provisions shall apply to all streets, interior access drives or interior access driveways, whether public or private: All landscape plantings, structural barriers, shrubs, trees, structures or other objects, temporary or permanent, shall permit completely unobstructed vision within a clear sight triangular area between the heights of two and one-half (2½) and nine (9) feet above the crown of the streets, drives, or driveways. A clear sight triangular area shall be established as one of the following (See section 731-102, Diagram F):
  - a. On a corner lot, the clear sight triangular area is formed by the street right-of-way lines, the pavement edge of the drives or driveways and the line connecting points twenty-five (25) feet from the intersection of such street right-of-way lines and pavement edge lines; or in the case of a round or cut property corner, from the intersection of the street right-of-way lines and pavement edge lines extended; or,
  - b. On a lot adjacent to an at-grade railroad crossing, the clear sight triangular area is formed by the lot line coterminous with the railroad right-of-way, the street right-of-way line or pavement edge line, and the line connecting points twenty-five (25) feet from the intersection of such lines; and,
  - c. On a lot ~~which that~~ has a driveway, abuts an alley or ~~which that~~ is next to a lot ~~which that~~ has a driveway, the two (2) clear sight triangular areas are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and the line connecting points ten (10) feet from the intersection of the street right-of-way and driveway or alley lines extended.

(2) *Requirements for public streets.*

- a. All public streets shall be dedicated to the public and improved and constructed in accordance with the standards set forth in the Subdivision Control Ordinance of Marion County, Indiana, and General Ordinance No. 49, 1972, including the Indianapolis Department of Public Works Standards for Street and Bridge Design and Construction.
- b. The right-of-way of all streets within the project, which are indicated on The Official Thoroughfare Plan for Marion County, Indiana, or which have been required by zoning, variance, or platting commitment, condition, covenant or parole covenant, to be constructed to specific standards based upon their proposed functional classification shall be dedicated to the public, or the right-of-way thereof shall be reserved for the future.

(3) *Requirements for all private streets, interior access driveways, and interior access drives for attached multifamily dwelling projects, mobile dwelling projects and planned unit residential developments.*

- a. All private streets, interior access driveways and interior access drives for attached multifamily projects, mobile dwelling projects and planned unit residential developments shall meet the minimum standards for construction, materials for use in construction, and design as specified by the "Standard Specifications," Indiana Department of Transportation (8-17-1-39), the Indiana Department of Transportation Supplemental Specifications, and the Indianapolis department of public works (DPW) Standards for Street and Bridge Design and Construction. In the event DPW specifications conflict with the Indiana Department of Transportation "Standard Specifications," the most stringent specifications shall govern.

The "Standard Specifications" of the Indiana Department of Transportation is incorporated into this ordinance by reference. Two (2) copies of the "Standard Specifications" are on file and available for public inspection in the office of the Division of Development Services.

Provided, however, that the standard specifications incorporated into this ordinance shall be modified as follows:

1. Curbing shall not be required in the development of private streets, private access driveways and private interior access drives for attached multifamily projects.
2. Private interior streets, private interior access drives and private interior access driveways for attached multifamily projects, mobile dwelling projects and planned unit residential developments shall have a minimum width, including gutters, and, if required, curbing, of:

One-way, no parking: Twelve (12) feet.

One-way, parking on one (1) side of the street only: Twenty (20) feet.

Two-way, no parking: Twenty (20) feet.

Two-way, parking on one (1) side only: Twenty-seven (27) feet.

Two-way, parking on both sides of the street: Thirty-six (36) feet.

- b. Private streets, private interior access drives and private interior access driveways shall be privately maintained (not by governmental agencies) in good condition and free of chuckholes, standing water, weeds, dirt, trash and debris.
- c. The owner or project management, homeowners' association or other similar organization shall maintain all sidewalks, pedestrian ways, private streets, interior access drives, interior access driveways and parking areas in good repair and reasonably free of chuckholes, standing water, mud, ice and snow.

(4) *Sidewalk requirements in the D-6, D-6II, D-7, D-8 (multi-family lots), D-9, and D-10 dwelling districts.* On any lot or project that is not served by either an existing public sidewalk or a public sidewalk alternative authorized by the City of Indianapolis, sidewalks shall be provided in compliance with the following regulations.

a. *Placement.*

1. Sidewalks shall be provided along all eligible public streets, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the administrator.
2. Sidewalks shall extend along the full length of the eligible public street.
3. Unless a different location is approved by the administrator, the sidewalks shall be provided within the public right-of-way, one (1) foot from the right-of-way line.
4. Where sidewalks exist in the public right-of-way in front of an adjacent lot and extend to a point equal to the common lot line extended, the sidewalks shall fully connect with such existing sidewalks on the adjacent property to provide a continuous, unobstructed walkway along the public street.

b. *Construction.*

1. Sidewalks shall consist of the walkway and any curb ramps or blended transitions.

2. Sidewalks shall meet the Standards for Street and Bridge Design and Construction (G.O. 49, 1972/Standards for Acceptance of Streets and Bridges of the City-County Council of Indianapolis and Marion County, Indiana), as amended.
  3. Sidewalks constructed to comply with this section shall be a minimum width of five (5) feet, exclusive of the width of any curb. A minimum clear width of four (4) feet shall be provided. The clear width shall be fully unobstructed by utility poles, traffic signs, mailboxes, fire hydrants or other similar items.
  4. Sidewalks shall be a minimum of four (4) inches in thickness of Portland cement concrete, except where sidewalks cross concrete drives or driveways the thickness shall be a minimum of six (6) inches, conforming to subsection 604 of the current Indiana Department of Transportation Design Standards and Specifications. Sidewalks along eligible public streets that are identified in the Marion County Greenways Plan, Marion County Comprehensive Plan, or IndyParks Connectivity Plan as a greenway or linear path may be constructed with alternate materials and depth standards as approved by
- c. *Site considerations.* In locations where site conditions cause extreme difficulty in the construction of sidewalks, the administrator may, upon written request, waive that portion of sidewalks or reduce the five (5) foot minimum sidewalk to not less than four (4) feet. Examples of extreme difficulty include, but are not limited to, waterway crossings, significant elevation change, existing deep drainage swales in the right-of-way, side slope grades steeper than 3:1, and linear grade changes along the right-of-way line in excess of seven (7) percent. The request shall include supporting documentation. The waiver would be pursuant to a written agreement and subject to a contribution in lieu of sidewalks that shall be made to the city for the provision of sidewalks in Marion County. The amount shall be eighteen dollars (\$18.00) per linear foot of required sidewalk waived. The rate per linear foot shall be increased by forty-five cents (\$0.45) annually beginning January 1, 2009.
  - d. *Compliance with the Americans with Disabilities Act (ADA).* Sidewalks and any alternative pedestrian walkway shall comply with the Americans with Disabilities Act. Where this ordinance exceeds the Americans with Disabilities Act, any such improvement shall meet or exceed the provision of this ordinance.
  - e. *Requirements for sidewalks for new development.* Sidewalks shall be provided in connection with the initial development of a project when a building is constructed, erected, or relocated. Sidewalks shall be provided for the reconstruction of a project upon which at least two-thirds (2/3) of all buildings have been removed, demolished, or destroyed.
  - f. *Internal accessibility for new development.* Within a project, walkways shall be provided in accordance with a pedestrian plan that shall include a walkway system that functionally connects all of the building's front entrances with the sidewalk located along the public right-of-way of each of the project's eligible public streets. The walkways may be constructed of asphalt, concrete, pavers, or other materials meeting the Fair Housing Act of 1988 and ADA guidelines. Such private walkways shall provide for identifiable pedestrian crossing treatments along functional pedestrian routes wherever the private walkways cross an interior access drive or interior access driveway. Such internal accessibility shall be (i) subject to the site considerations provisions as provided in paragraph c. above, but without any contribution obligation, and (ii) subject to and in accordance with the requirements of the Fair Housing Act of 1988 and ADA.
  - g. *Requirements for sidewalks for redevelopment or additions.* For a lot or project upon which a building on a permanent foundation exists prior to July 1, 2008, and improvements are proposed, sidewalks for the redevelopment or the additions shall be provided in compliance with the following regulations, provided however, in the event of a project with more than two-thirds (2/3) of its units being complete as of July 1, 2008, the provisions of this ordinance shall not be applicable to all phases of the project:
    1. Sidewalks shall be required when a building is constructed, converted to a residential use, erected, enlarged, extended, reconstructed or relocated; except where a building was destroyed or damaged by fire or natural causes or where a building is being rehabilitated and such reconstruction or rehabilitation is on substantially the same foundation and of substantially the same gross floor area.
    2. Sidewalks shall be provided at a minimum rate of five (5) linear feet of sidewalk per one hundred (100) square feet or fraction thereof of the gross floor area of the

constructed, converted, erected, enlarged, extended, reconstructed or relocated building or addition. The linear amount of sidewalk required shall not exceed the cumulative length of eligible public streets of the project, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the administrator.

3. The provision of the sidewalks shall be in accordance with the following options with the first option being preferred:
  - i. Sidewalks shall be constructed; or
  - ii. Pursuant to a written agreement, a contribution in lieu of sidewalks shall be made to the City for the provision of sidewalks in Marion County. The amount shall be eighteen dollars (\$18.00) per linear foot of required sidewalk. The rate per linear foot shall be increased by forty-five cents (\$0.45) annually beginning January 1, 2009.
4. Where this subsection would result in the partial installation of sidewalks along an eligible public street, the administrator shall determine the location along the eligible public street where the sidewalks shall be installed. The criteria for the sidewalk location shall be the greatest improvement to the public health, safety, welfare and convenience.
5. The provision of the sidewalks shall be required for each addition to the site until the sidewalk is constructed along all eligible public streets or the equivalent contribution has been made for the sidewalks.

(d) *Reserved.*

(e) *Off-street parking requirements.* Off-street parking facilities shall be provided and maintained, for all uses permitted in the dwelling districts, in accordance with the following regulations:

(1) *Number of spaces required.*

- a. For every single-family dwelling or two-family dwelling in the D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-8, and D-12 dwelling districts, there shall be provided at least two (2) off-street parking spaces for each unit ~~which~~ that may include the parking space(s) provided in a garage or carport.
- b. For every attached multifamily dwelling in the D-6, D-6II, D-7, D-8, D-9 and D-10 dwelling districts, off-street parking spaces shall be provided in accordance with the development amenities of each district.
- c. For every mobile dwelling in the D-11 dwelling district, a minimum of two (2) paved off-street parking spaces shall be provided.

(2) *Development requirements.*

- a. Parking areas for uses in (1)a. above need not be paved.
- b. Parking areas for uses in (1)b. above shall be subject to the following requirements:
  1. Off-street parking areas (including, but not limited to, entrances, exits, aisles, spaces, traffic circulation and maneuverability) shall be designed and constructed at not less than the recommended specifications contained in "Architectural Graphic Standards," Current Edition, Ramsey and Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the offices of the Division of Planning and is hereby incorporated by reference and made a part hereof); except that each parking space shall have, regardless of angle of parking, a usable parking space measuring not less than eight and one-half (8 1/2) feet in width (measured perpendicularly from the sides of the parking space) and at least one hundred fifty (150) square feet of usable parking area.
  2. The parking area shall not be used for permanent storage or the display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or materials.
  3. Parking areas shall be paved with bricks, concrete or improved with a compacted aggregate base and surfaced with an asphaltic pavement, to adequately provide a durable and dustfree surface. Parking areas shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris.

4. The surface shall be graded and drained in such a manner that there will be no free flow of water onto sidewalks.
5. The parking area shall have each space delineated by painted lines and shall be provided with curbs, bumper guards or wheel stops so located that no part of the parked vehicles extend beyond the boundary of the established parking area.

(f) *Screening, landscaping, lighting and grounds maintenance.* Screening, landscaping, lighting and grounds maintenance shall be provided and maintained, for all attached multifamily dwelling projects and all mobile dwelling projects, in accordance with the required landscape plans and with the following regulations:

(1) Screening:

- a. Front yard of the project: An ornamental, decorative fence or masonry wall, not more than forty-two (42) inches in height if solid, or six (6) feet if the sight barrier is less than fifty (50) percent, may be used in conjunction with the required landscaping. Chain link fencing is not permitted. A clear sight triangular area shall also be maintained as regulated in section 731-219(b)(2)c. of this ordinance.
- b. Side and rear yard of the project: An ornamental, decorative fence or masonry wall may be used in conjunction with the required landscaping. Chain link fencing is permitted provided it is black vinyl covered chain link and does not include slats. A clear sight triangular area shall also be maintained as regulated in section 731-219(b)(2)c. of this ordinance.

Provided, however, if any portion of a mobile dwelling project or a multifamily project abuts land zoned so as to permit single-family or two-family dwellings, the perimeter yard between the project and the district shall be screened and landscaped for the purpose of buffering. In addition to the landscape requirements of section 731-221(f)(2), screening shall be provided and maintained according to the following minimum requirements:

1. Screening shall include any combination of an earthen mound; a solid hedge; a wall or fence of ornamental block, stone, brick, or solid wood fencing; and,
  2. Effective screening height shall be at least six (6) feet, as measured from the parking area's grade level, and so constructed to prohibit any view therethrough; and,
  3. If fencing is used for screening, such fencing shall be completely opaque when viewed within fifteen (15) degrees of perpendicular to the fence; and,
  4. If an earthen mound is used for screening, such earthen mound shall not exceed a maximum height of four (4) feet above grade and the incline shall not exceed a three (3) to one ratio, with the exception of previously existing natural outcroppings.
- c. Trash containers. All trash containers exceeding six (6) cubic feet shall:
1. Be completely screened within a solid walled or fenced stall equipped with a self-latching solid gate and buffered by landscaping; and,
  2. Be accessible only from an interior access drive of the project; and,
  3. Not be located in any required perimeter yard.

(2) Landscaping:

- a. All required perimeter yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation, such as trees, shrubs, grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel may be used as a landscaping accent, but shall be limited to only twenty (20) percent of the area of the required yard in which it is used.
- b. Within the perimeter yards, there shall be at least one (1) tree planted or maintained for every thirty (30) feet of total linear distance along all perimeter yard property lines. Required trees may be grouped together in the perimeter yard, however, in no case shall spacing between said trees exceed sixty (60) feet on center. (Refer to Diagram E.)
- c. All parking areas adjacent to required perimeter yards shall be screened along the perimeter yard with a solid hedge. Screening may include the combination of said solid hedge and earthen mound, provided the effective screening height shall be at least thirty-six (36) inches above the parking area's grade level at the time of planting and the

maximum incline of the earthen mound shall not exceed a three (3) to one (1) ratio with the exception of previously existing, naturally occurring outcroppings.

- d. Within mobile dwelling projects, at a minimum, one (1) tree shall be planted or maintained on every mobile dwelling site. Said required tree shall not be located within any required yard or common recreational area(s).
- e. Required trees shall be deciduous or evergreen with a spreading branch habit. A group of shrubs may be substituted for a required tree, provided however:
  1. That the proposed tree to be substituted is not an existing tree, and
  2. That no more than twenty (20) percent of the required trees are substituted with shrubs, and
  3. That the shrubs are planted or maintained five (5) feet or less on center, and
  4. The shrubs substituted are in addition to any underplanting requirements, and
  5. That a grouping of five (5) shrubs may be substituted for one (1) tree.
- f. The minimum size of all required landscape plant materials, at the time of planting, including substituting or replacement trees and shrubs, shall be as follows:
  1. Deciduous shade (overstory) trees: Two and one-half (2 1/2) inch caliper at six (6) inches above the ground.
  2. Deciduous ornamental (understory) trees: One and one-half (1 1/2) inch caliper at six (6) inches above the ground.
  3. Multistemmed trees: Eight (8) feet in height.
  4. Evergreen trees: Five (5) feet in height.
  5. Deciduous shrubs: Twenty-four-inch spread or two (2) feet in height.
  6. Evergreen shrubs: Twenty-four-inch spread or two (2) feet in height.
- g. Deciduous and evergreen shrubs when used for required hedges shall be planted an average of thirty-six (36) inches or less on center within the hedge row.
- h. All trees and shrubs shall be planted, maintained or transplanted in accordance with the standards of the American Association of Nurserymen (a copy of which is on file in the Office of the Division of Planning and is hereby incorporated by reference and made a part hereof). All trees and shrubs shall be mulched and maintained to give a clean and weedfree appearance.
- i. Prior to any construction activity, the removal from any minimum, required yard of any existing deciduous tree over three-inch caliper at six (6) inches above ground or of any existing shrub or evergreen tree over six (6) feet in height, must first be approved in writing by the Administrator. Removal of said tree(s) without written approval from the Administrator, shall require the replanting of replacement tree(s) so that the total number of caliper inches replanted equals or exceeds the total number of calipers removed. Replacement trees shall be of the same species as those trees removed unless approved otherwise by the administrator. Replanting of these replacement trees shall occur within six (6) months of removal or the next planting season, whichever occurs first. Replacement trees shall not be considered a required tree for the figuring of the minimum number of trees required in any perimeter yard but rather as an additional tree.
- j. All existing trees larger than ten-inch caliper at six (6) inches above the ground ~~which~~ that are to be preserved shall be maintained without injury and with sufficient area for the root system to sustain the tree. Protective care and physical restraint barriers, such as temporary protective fencing, shall be provided to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction. Heavy equipment traffic and storage of construction equipment or materials of any kind shall not be any closer to the tree than the drip line of the tree or ten (10) feet, whichever is closer.
- k. Prior to the issuance of an improvement location permit, the administrator may require a tree survey for a specified time to be completed for a site or portion of a site. Such survey shall become a part of the file and requirements for an improvement location permit. In the case of large, dense tree stands (those exceeding six hundred (600) square feet in area with seventy-five (75) percent branch coverage of the ground surface), the

outer boundary of the tree stands' drip line and location with a listing of the predominant species and caliper size may be substituted for a detailed inventory.

1. The administrator, upon written request by the applicant and upon receiving a suitable alternative landscape plan, shall have the power to modify any landscape requirements deemed by the administrator to be infeasible or unreasonably burdensome. Such modification shall be written and become a part of the file and requirements for the improvement location permit.

(3) Landscape plan: A landscape plan shall:

- a. Be drawn on a copy of the site plan (or a simplified scale drawing thereof) showing exact location, outlines and dimensions of all structures, buildings, mobile dwelling sites, mobile dwelling paved stands, patios, sidewalks and pedestrian ways, streets, trash enclosures, project access and interior access drives and driveways, individual and project storage, permanent lighting fixtures, signs, benches, screens, walls, fences, natural vegetation areas, open space, recreational areas, perimeter yards, adjacent property uses and physical features, and all underground and overhead lines with depths or heights indicated at intervals where lines change direction or where terminals or connections are provided; and,
- b. Show dimensioned detailed elevation or section drawings of any trash enclosures, walls, fences, and signs (including sign content); and,
- c. Show all existing elevations and proposed land contour lines having at two-foot intervals; and,
- d. Show location and nature of existing and proposed drainage systems and their flow; and,
- e. Include a tree survey indicating the exact location of existing trees of over two and one-half (2 1/2) inch caliper one (1) foot above the ground and all flowering trees, shrubs and evergreens; all being accurately labeled in the drawing as existing (to remain), existing to be removed or to be transplanted with species and caliper size indicated. Exception: those trees and shrubs located in natural vegetation areas (e.g., woods, thickets or meadows) that will not be developed, but will be left and maintained as a natural untouched area may be indicated by the delineation of the area's outer boundary; and,
- f. Show all proposed plantings and transplantings with plants and plant groups labeled in the drawing as to quality, species, shape, size, spacing (on centers), and purpose (visual or noise abatement screen, hedge, specimen or ground cover).

(4) Lighting:

- a. All access drives, interior streets, interior access drives, intersections, dead ends, culs-de-sac, apices of curves, parking areas, open storage areas, walks and passive and active recreation areas shall be provided with lighting devices to adequately illuminate the areas.
- b. Street or pedestrian lighting devices may be mounted at heights beginning at (or slightly below) ground level to forty-two (42) inches above ground or from ten (10) to thirty (30) feet above ground. Spacing of all lighting devices shall be determined by the height above street grade level and maximum footcandles of each device in conjunction with their capacity to provide an adequate lighting level for the required area and use.
- c. Lighting levels for all outdoor areas shall meet the recommended minimum average maintained horizontal footcandle as specified in the "Illuminating Engineering Society Lighting Handbook," Application Volume, current edition (a copy of which is on file in the Office of the Division of Planning and is hereby incorporated by reference and made a part hereof).
- d. All lighting facilities used to illuminate outdoor areas shall be so located, shielded and directed upon the area to be lighted that they do not glare onto, or interfere with, street traffic, adjacent buildings, or adjacent uses.
- e. Lighting devices for active recreational areas and uses shall be equipped with switching devices ~~which~~ that allow lighting levels to be changed when the active recreational use ceases and a lower lighting level is sufficient.

(5) Grounds maintenance. The project owner or management, homeowners' association or other similar organization shall:

- a. Maintain the entire site in a safe, neat and clean condition; free from litter, trash, debris,

junk, and reasonably free of weeds; and,

- b. Maintain all sidewalks, pedestrian ways, interior streets, interior access drives, and parking areas in good repair and reasonably free of chuckholes, standing water, mud, ice and snow; and,
- c. Maintain the landscaping by keeping lawns mowed, all plants properly pruned and maintained as disease-free, and planting beds groomed, except in naturally occurring vegetation areas, such as thickets; and,
- d. Replace any required planting(s), which are removed or no longer living, within a year or the first planting season, whichever occurs first, except those in naturally occurring vegetation areas, such as thickets.

(g) *Appeal.* In all subsections of this section 731-221, Special regulations, where the Administrator is given authority of discretionary approval of plans and specifications, or the method or manner of qualification, or any other similar authority, any party of interest shall have the right to bring such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval through the filing of an approval petition for a detailed plan approval. The right to have such action of the Administrator reviewed by the Metropolitan Development Commission shall be in addition to any other right an aggrieved party may have under law to have such action reviewed, including, but not limited to, the right to appeal such action to the Metropolitan Board of Zoning Appeals of Marion County, Indiana.

(h) *Application of this section.* This section shall be applicable to all dwelling districts except when specified otherwise in the Dwelling District Zoning Ordinance or in the D-P planned unit residential development district where subsections (a) and (e) shall not be applicable.

SECTION 7. Section 731-322 of the "Revised Code of the Consolidated City and County," regarding subdivision zoning regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 731-322. Requirements for improvements, reservations, and design; general subdivision standards.

(a) *Streets.* All proposed plats submitted for Committee approval under the provisions of these regulations shall allocate adequate areas for streets in conformity with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana, and shall designate and label all such streets thereon in accordance with the following definitions, specifications and requirements regarding platting width, right-of-way, and control of access.

(1) *Street classification and minimum street rights-of-way.*

- a. *Expressway.* Any street designated and labeled ~~labeled~~ as an "expressway" shall be a divided arterial street designed, planned and intended for through vehicular traffic in conformance with the Comprehensive Plan and Thoroughfare Plan for Marion County, Indiana, with full or partial control of access thereto. The minimum right-of-way required for an expressway shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Control of access shall be as determined by the Department of Public Works or the Indiana Department of Transportation, based upon the jurisdiction of the subject facility.
- b. *Parkway.* Any street designated and labeled ~~labeled~~ as a "parkway" shall be a street serving through vehicular traffic, with partial control of access provided. Adjoining land on one (1) or both sides of such a street shall be predominately dedicated or used for park purposes, and shall conform to the Comprehensive Plan for Marion County. Control of access shall be as determined by the Department of Public Works.
- c. *Primary thoroughfare.* Any street designated and labeled ~~labeled~~ as a "primary thoroughfare" shall be designed, planned and intended to serve through vehicular traffic within Marion County or surrounding areas, in conformance with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana. As a general rule, primary thoroughfares shall be located at approximately one (1) mile intervals in the north-south or east-west grid pattern. The minimum right-of-way required for a primary thoroughfare shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Partial control of access to a primary thoroughfare shall be exercised so as to permit access to each lot abutting thereon as provided in section 731-322(a)(2)d. of this article.
- d. *Secondary thoroughfare.* Any street designated and labeled ~~labeled~~ as a "secondary

thoroughfare" shall be designed, planned and intended to serve as a collector and distributor of through vehicular traffic from sections of land within Marion County, in conformance with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana. The minimum right-of-way required for a secondary thoroughfare shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Partial control of access to a secondary thoroughfare shall be exercised so as to permit access to each lot abutting thereon as provided in section 731-322(a)(2)d. of this article.

- e. *Collector street.* Any street designated and ~~labeled~~ ~~labelled~~ as a "collector street" shall be designed, planned and intended to serve as a collector and distributor of vehicular traffic, carrying such traffic to and from expressways, parkways, primary thoroughfares, secondary thoroughfares, and local streets. Collector street shall include but not be limited to entrance streets of residential subdivisions.
- f. *Local street.* Any street designated and ~~labeled~~ ~~labelled~~ as a "local street" shall be designed, planned and intended primarily to provide access to lots abutting thereon.
- g. *Cul-de-sac.* Any local street designated and ~~labeled~~ ~~labelled~~ as a "cul-de-sac" shall be designed, planned and intended as such, having only one (1) end open to vehicular traffic from an expressway, parkway, primary thoroughfare, secondary thoroughfare, collector street or local street and with the closed end permanently terminated by a vehicle turnaround.

The minimum right-of-way required for a parkway, collector street, local street, or a cul-de-sac shall be per the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. No. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana).

(2) *Standards.*

- a. *Streets.* Streets ~~which~~ ~~that~~ are extensions or continuation of, or obviously in alignment with, any existing streets, either constructed or appearing on any validly recorded plat or survey, or valid plat previously approved by the Commission, shall bear the names of such existing streets.
- b. *Alleys.*
  - 1. In areas designated as Development Area One in the Thoroughfare Plan for Marion County, Indiana, public alleys may be utilized for infill development, and where the use of such alleys would be compatible with the development pattern of the area surrounding the proposed plat.
  - 2. Private alleys may be utilized for any proposed plat, provided they are constructed to local street pavement thickness and geometric design as noted in accordance with the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code, both documents incorporated into these regulations by reference and made a part hereof.
- c. *Access to areas abutting thoroughfares.* If the area proposed to be platted abuts upon or contains an existing or proposed thoroughfare, the street plan shall provide vehicular access to each lot abutting upon such thoroughfare by one (1) of the following means:
  - 1. The subdivision of lots ~~which~~ ~~that~~ back up to the thoroughfare and front onto an interior parallel local or collector street; no access shall be provided from the thoroughfare, and screening shall be provided in a strip of land along the rear property line of such lots.
  - 2. A series of culs-de-sac, U-shaped streets, or short loops entered from and designed generally at right angles to an interior parallel street, with the rear lines of their terminal lots backing onto the thoroughfare (see Diagram A).
  - 3. A marginal access street (the rights-of-way between the marginal access street and the thoroughfare separated from one another by a permanent strip of land of at least fifteen (15) feet in width, outside of, and separate from, the rights-of-way of either street).
- d. *Dead-ended streets.* Permanently dead-ended streets (except for cul-de-sac streets as defined in these regulations) are prohibited. A temporarily dead-ended street is permitted in any case in which a street is proposed to be and should logically be extended beyond

the limits of such plat, but is not yet constructed beyond such plat limits. The right-of-way of a temporarily dead-ended street shall extend to the property line of the plat. An adequate easement for a turnaround shall be provided for any such temporarily dead-ended street ~~which~~ that extends two hundred fifty (250) feet in length or greater, with a temporary hammer head ("T"); or an ell ("L") shaped turnaround provided. A notation on the plat shall state that land outside the normal street right-of-way shall revert to abutting property owners when the street is continued.

(b) *Lots.*

- (1) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography, soil or water conditions, or other conditions, in securing building permits to build on all lots in compliance with the zoning ordinance and health and hospital regulations, and in providing driveway access to buildings on the lots from an approved street. The design, character, grade, location, and orientation of all lots so allocated shall be appropriate for the uses proposed, and logically related to existing and proposed topography. Every lot shall have sufficient and adequate access to a street constructed, or to be constructed, in accordance with the provisions, standards, and specifications of this article.
- (2) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the applicable zoning district, or per zoning commitment, variance grant, cluster plat approval, or approval grant by the applicable public land use policy making body. In general:
  - a. Side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan.
  - b. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum required front yard setback from both streets, as regulated in the applicable zoning ordinance, or per zoning commitment, condition of a variance grant, or approval grant by the applicable public land use policy making body, pertaining to that site.
- (3) *Lot orientation.* The lot line common to the street right-of-way shall be the front lot line. All lots shall face the front line. Whenever feasible, lots shall be arranged so that the rear lot line does not abut the side lot line of an adjacent lot.
- (4) *Lots frontage and access.*
  - a. *Double frontage lots.* Double frontage, or through, lots shall be avoided except where necessary (as noted in section 731-322(a)) to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.
  - b. *Triple frontage lots.* Triple frontage lots (those lots ~~which~~ that have frontage on three (3) streets) are prohibited except at the entrances to a subdivision from an abutting street identified in the Thoroughfare Plan for Marion County, Indiana, as an expressway, freeway, primary arterial or secondary arterial.
  - c. *Access from primary and secondary arterials.* Lots shall not, in general, derive access exclusively from a primary or secondary thoroughfare, as noted in the Thoroughfare Plan for Marion County, Indiana. Where driveway access from a primary or secondary arterial thoroughfare may be necessary to several adjoining lots, the Committee may require that such lots be served by a combined access drive or frontage road in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on primary or secondary arterial thoroughfares.
- (5) *Common area.* Whenever common area for a subdivision perimeter abuts a secondary or primary arterial street, as designated in the Official Thoroughfare Plan for Marion County, Indiana, such common area shall be a minimum of twenty (20) feet in width along and paralleling the length that it abuts the thoroughfare. Common areas within a subdivision shall be accessible to all its residents. Access shall be provided so that no common area is "land locked" by private lots, requiring subdivision residents to trespass across such lots in order to enter the common area.
- (6) *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots. Each lot owner shall maintain the lot grade as it relates to stormwater drainage, in compliance with the approved construction plans.

- (7) *Debris and waste.* No junk, rubbish, or other waste materials of any kind, whether natural (by example: cut trees or timber, debris, rocks) or construction-related (by example: concrete, building materials), shall be buried in any land at any time, nor shall these materials be left or deposited on any lot or street at the time of the release of the maintenance bond. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of dedication of public improvements.
- (8) *Waterbodies and watercourses.* No more than twenty-five (25) percent of the minimum lot area required under the applicable zoning ordinance may be satisfied by land that is under water. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other appropriate structure. Such culvert shall be of a design approved by the Division of compliance bureau of license and permit services of the ~~Department of Metropolitan Development~~ code enforcement.
- (c) *Building setback lines.* Minimum building setback lines shall be regulated by the setback provisions of the zoning ordinance applicable to the area proposed to be platted. Setbacks in excess may be platted at the subdivider's discretion, however, such excessive platted setbacks shall not be enforced by the Commission unless such setbacks were required as a part of a commitment, condition, approval, or site plan tied to a land use petition by the applicable public land use policy making body pertaining to the subject site.
- (d) *Easements.*
- (1) *Drainage.*
- a. *General requirements.* When a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse. Such easements shall be of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with vegetative banks and adequate width for maximum potential volume of flow.
- b. *Drainage easements.* If any stream or necessary surface watercourse is located in the area to be platted, adequate areas for easements along the sides of such stream or watercourse shall be allocated for the purpose of widening, sloping, improving or protecting the stream or surface watercourse. Such easements shall be a minimum width of fifteen (15) feet.
- (2) *Utility.*
- a. *Location.* All utility facilities, including but not limited to gas, electric power, telephone, and cable television cables, shall be located underground throughout the subdivision (per Chapter 730, Article IV of this Code). Whenever existing utility facilities are located aboveground, except when located on public streets and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the primary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
- b. *Utility easements.* As a general principle, such easements shall be located along both sides of rear lot lines and the total width of such combined lot easements shall be a minimum of ten (10) feet, unless an alternative size is required by the applicable utility or city agency. Note: All easements shall be indicated on the plat.
- (e) *Public sites.* All plats submitted for Committee approval under the provisions of these regulations may allocate adequate areas for park, school, recreational and other public and semi-public sites, wherever necessary in conformity with the comprehensive plan and as required by the Commission. The location, shape, extent and orientation of such areas shall be consistent with existing and proposed topographical and other conditions, including, but not limited to, the park, school, recreational and other public and semi-public needs of the proposed subdivision. Such areas shall be made available by one (1) of the following methods:
- (1) Dedication to public use.
- (2) Reservation for the use of owners of land contained in the plat, by deed restriction or covenants ~~which that~~ specify how and under what circumstances the area or areas shall be developed and maintained.
- (3) Reservation for acquisition by a governmental unit or agency within a period of nine (9)

months, such area to be released for private use:

- a. In the event that no governmental unit or agency proceeds with such acquisition within nine (9) months of the date of the recording of said plat; or
- b. If released by such governmental unit or agency prior to the expiration of the nine-month period; and

the secondary plat indicates the nature and extent of the private use into which such area may be placed if such area is not used by a governmental unit as specified.

- (4) Dedication to use by a bona fide nonprofit organization for recreational, athletic or other community uses by those the organization serves.

SECTION 8. Section 732-213 of the "Revised Code of the Consolidated City and County," regarding commercial district zoning regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 732-213. Drive-through off-street stacking space regulations.

(a) *General provisions.* The purpose of off-street stacking space regulations is to promote public safety by alleviating on-site and off-site traffic congestion from the operation of a facility ~~which that~~ utilizes a drive-through service unit. Any use having a drive-through service unit shall provide the required off-street stacking area on-site to minimize off-site traffic congestion while waiting for service. Each drive-through service unit shall provide stacking spaces as follows:

- (1) Each stacking space shall be not less than eight and one-half (8½) feet in width and seventeen and one-half (17½) feet in length, with additional spaces for necessary turning and maneuvering.
- (2) The area required for stacking spaces shall be exclusive of and in addition to any required parking space, loading space, driveway, aisle and required yard, unless specifically noted.
- (3) A parking space at any component of a drive-through service unit (window, menu board, order station, or service bay) shall be considered to be a stacking space.
- (4) An area reserved for stacking spaces shall not double as a circulation driveway or maneuvering area.
- (5) Sites with stacking spaces shall include an exclusive bypass aisle, driveway or other circulation area in the parking lot design to allow vehicles to bypass the stacking area.
- (6) A drive-through service unit may project up to one (1) foot into the stacking area.
- (7) A drive-through service unit shall not be permitted on the side or rear of a building, or within the side or rear yard of a building, which abuts a protected district unless the side or rear setback of each component of a service unit is located more than one hundred (100) feet from the protected district.
- (8) Drive-through service units may contain more than one (1) component part. Service units may contain such components as menu board(s), pay windows, and food-service pickup windows. To determine the number of off-street stacking spaces located before a service unit, the final component of the service unit shall be used in determining the location of the required off-street stacking spaces. In the case of car washes, the final component of a service unit is the entrance to the car wash building itself.

(b) *Site plan submission.* All required off-street stacking spaces and circulation pattern(s) shall be demonstrated on the site plan that is submitted at the time of filing for an Improvement Location Permit. The submitted site plan shall also delineate:

- (1) All existing and proposed points of ingress and egress, circulation and maneuvering areas, off-street parking and loading areas; and
- (2) Separately tabulate the number of required off-street parking, loading, and stacking spaces in a conspicuous place on the plan for easy reference.

Prior to obtaining an Improvement Location Permit, the site plan shall be forwarded to the ~~division of compliance~~ bureau of license and permit services for its review and comment.

- (c) *Required stacking spaces.*

- (1) *Bank (including ATM's):* Six (6) spaces before the final component of each service unit; one (1) space after each service unit.
- (2) *Drive-in theatre:* Before the ticket service window or area, stacking space shall be equal to twenty (20) percent of the total off-street parking capacity of the theatre. The in-bound reservoir area shall not connect or conflict in any way with exit driveways.
- (3) *Car washes:*
  - a. Self-service or hand wash: Three (3) spaces before the final component of each service unit; two (2) spaces at the exit of each unit.
  - b. Semi- or fully automatic: Twenty (20) spaces before the final component of each service unit; six (6) spaces reserved for vacuuming or drying of automobiles may count in the exit stacking figure. Parking spaces not required for off-street parking spaces may be utilized for the stacking space calculation.

(4) *Restaurants:*

Number of Drive-Through Service Units	Total Number of Stacking Spaces Required
One (1)	Six (6) spaces before the final component of the service unit; two (2) spaces at the exit of the unit.
Two (2)	Eight (8) spaces before the final component of each service unit; two (2) spaces at the exit of each unit.
For each additional drive-through service unit	Four (4) spaces before the final component of each additional service unit and one (1) space at the exit of each unit.

- (5) All other facilities utilizing a drive-through service unit. Including, but not limited to laundry and dry cleaning stations, photo drop-off/pick-up stations, automobile oil change or lubrication facilities: Three (3) spaces before the final component of the service unit; one (1) space at the exit of each service unit.

SECTION 9. Section 733-202 of the "Revised Code of the Consolidated City and County," regarding industrial district zoning regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 733-202. I-1-S Restricted Industrial Suburban District.

*Statement of purpose:* This district is designed for those industries ~~which that~~ carry on their entire operation within a completely enclosed building in such a manner that no nuisance factor is created or emitted outside an enclosed building. No storage of raw materials, manufactured products, or any other materials is permitted in the nonscreened open space around the buildings. Loading and unloading berths are completely enclosed or shielded by a solid screening. This district has strict controls on the intensity of land use providing protection of each industry from the encroachment of other industries. It is usually located adjacent to protected districts and may serve as a buffer between heavier industrial districts and business or protected districts.

(a) *I-1-S development standards.*

(1) *Use.*

- a. Enclosed operations. All operations, servicing or processing (except storage and off-street loading) shall be conducted within completely enclosed buildings.
- b. Outside storage. All storage of materials or products shall be:
  - 1. Within completely enclosed buildings; or
  - 2. Effectively contained by a chain link, solid, lattice or similar type fence or wall, with ornamental, nonsolid, chain link or similar type entrance and exit gates. (Canvas may be attached to gates for effective screening.) The height of such fence or wall shall be at least six (6) feet and shall not exceed ten (10) feet. Such fence or wall shall be surrounded by trees or an evergreen hedge of a height not less than the height of such fence or wall, to be planted following the provisions for landscaping and screening of required transitional yards of section 733-211(e)(2). The storage

of materials or products within the enclosure may not exceed the height of the fence.

c. Outside storage area limitation.

1. Total area of outside storage shall not exceed twenty-five (25) percent of the total gross floor area of enclosed structures and buildings.
2. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:
  - i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
  - ii. Be located behind the established front building line; and
  - iii. Not be located within a required yard or required transitional yard unless located within a parking area ~~which~~ that is permitted in a required yard.

*Exception:* This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

- (2) *Required minimum.* Each lot or industrial park shall have at least seventy-five (75) feet of frontage on a street right-of-way and shall gain access from such street frontage.
- (3) *Required minimum front yards, minimum front setback.* The setback requirements of section 733-211(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 733-200(a)(3)b. or c.
- (4) *Required minimum side yards, minimum side setback.* A side building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to additional transitional yard requirements of section 733-202(a)(6) or (8). Provided, however, if the side lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-202(a)(6).
- (5) *Required minimum rear yard, minimum rear setback.* A rear building setback of not less than thirty (30) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 733-202(a)(6) or (8). Provided, however, if the rear lot line abuts an active railroad right-of-way or railroad spur, the building shall be permitted to abut the railroad right-of-way, unless subject to the requirement for transitional yards of section 733-202(a)(6).
- (6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 733-202(a)(7) or (8) in addition to the following requirements:
  - a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than one hundred (100) feet, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 733-200(a)(3)b., c. or d. In the case where a proposed right-of-way does not exist or where the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.
  - b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than fifty (50) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line. Provided, however, additional front, side or rear setback distances for transitional yards, as specified in section 733-202(a)(8), shall be required to permit building heights exceeding twenty-two (22) feet to a maximum height of forty (40) feet (see section 733-213, Diagram A).

*Exceptions:*

1. Front, side or rear setback distances for transitional yards may be modified by utilizing the landscape performance standards of section 733-211(e).
2. The transitional yard requirements of section 733-202(a)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance

or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

- (7) *Use of required yards and required transitional yards.* All required transitional yards shall be subject to the requirements of section 733-211(e) and shall remain as open space free from structures except where expressly permitted by this chapter.
- a. Required front yards may include:
    - 1. Pedestrian walks, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and
    - 2. Off-street parking areas and associated maneuvering areas not exceeding ten (10) percent of the total area of the required front yard and subject to the off-street parking regulations of section 733-210.
    - 3. Driveways, provided they are not located within twenty (20) feet of a lot line abutting a protected district.
  - b. Required side and rear yards may include:
    - 1. Pedestrian walks, interior access driveways, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures; and
    - 2. Off-street parking and loading areas, subject to the off-street parking and loading regulations of section 733-210.
    - 3. Driveways and interior access drives.
  - c. Required front, side or rear transitional yards:
    - 1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and
    - 2. Shall not include parking or loading areas, interior access drives, or outdoor display or storage areas.
- (8) *Maximum height of buildings and structures.* Forty (40) feet, subject to the exception noted in section 733-200(a)(5). Provided, however, along any required front, side or rear transitional yard, the maximum vertical height shall be:
- a. Twenty-two (22) feet; or
  - b. Forty (40) feet if for each foot of height in excess of twenty-two (22) feet, to an absolute maximum height of forty (40) feet, one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear transitional yard setback line for each foot of building or structural height above twenty-two (22) feet (see section 733-213, Diagram A).
  - c. The height of signs and sign structures shall comply with Chapter 734 of this Code.
- (9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code.
- (10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 733-210.
- (11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 733-210.
- (12) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 733-211.
- (b) *Performance standards.*
- (1) *Noise, vibration, odor, glare, heat.* In no case shall production or operational noise, vibration, odor, glare, or intense heat be permitted to escape beyond the lot lines.
  - (2) *Smoke, particulate matter, noxious materials.* The emission of smoke, particulate matter, or noxious or toxic gases shall conform to the standards and regulations of Chapter 511 of this Code. The standards and regulations noted in Chapter 511 of this Code for the emission of smoke, particulate matter, or noxious or toxic gases are hereby incorporated by reference and made a part hereof.
  - (3) *Fire and explosive hazards.* The storage, utilization or manufacture of all products or

materials shall conform to the standards prescribed by the National Fire Protection Association. The standards prescribed by the National Fire Protection Association for the storage, utilization or manufacture of all products or material are hereby incorporated by reference and made a part hereof. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

- (4) *Discharge of waste matter and storm drainage.* No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; the Indiana Department of Environmental Management; or in such a manner as to endanger the public health, safety or welfare; or cause injury to property. Prior to improvement location permit issuance for any industrial use:
- a. Plans and specifications for proposed sewage disposal facilities and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from:
    1. Construction of public facilities - the Indiana Department of Environmental Management and the ~~City of Indianapolis, Division of compliance~~ bureau of license and permit services of the department of code enforcement; or
    2. Private sewage disposal systems - the Indiana State Board of Health and the Health and Hospital Corporation of Marion County, Indiana;
  - b. Written approval of proposed connection to a public sewer shall be obtained from the ~~Division of compliance~~ bureau of license and permit services; and
  - c. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the ~~Division of compliance~~ bureau of license and permit services.

SECTION 10. Section 733-210 of the "Revised Code of the Consolidated City and County," regarding industrial district zoning regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 733-210. Off-street parking and loading regulations.

- (a) *General provisions.*
- (1) *Application of regulations.* The off-street parking and loading provisions of this chapter shall apply as follows:
- a. *Buildings, structures, uses hereafter established -- Exception permits previously issued.* For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking and loading areas shall be provided in accordance with the regulations of this section. However, where improvement location and building permits have been issued prior to the effective date of this chapter, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion (but such time period not to exceed two (2) years after the issuance of such building permit), parking and loading spaces in the amounts required for issuance of such permits may be provided in lieu of any different amounts required by the off-street parking and loading regulations of this chapter.
  - b. *Buildings, structures, uses existing or hereafter established -- Increased intensity of use.* When the intensity of use of any legally established building, structure or premises (existing on the effective date of this chapter or hereafter established) is increased resulting in a net increase of gross floor area or any other unit of measurement specified herein for determining required parking or loading spaces, parking spaces and loading spaces as required herein shall be provided for such increase in intensity of use. However, no building or structure lawfully erected, or use lawfully established, prior to the effective date of this chapter shall be required to provide such additional parking spaces or loading spaces, unless and until the aggregate increase in any unit of measurement specified herein for determining required parking spaces or loading areas causes an increase in the required number of parking spaces or loading areas that equals fifteen (15) percent or more of the number of parking spaces or loading spaces existing on the effective date of this chapter, in which event parking spaces and loading spaces as required herein shall be provided for the total increase.
  - c. *Change of use.* Whenever the type of use of a building, structure or premises is hereafter changed to a new type of use permitted by this chapter, parking spaces and loading

spaces shall be provided as required for such new type of use, subject to the exception noted in section 733-210(a)(1)b.

- (2) *Existing parking areas or loading areas.* Required accessory off-street parking areas or loading areas in existence on the effective date of this chapter shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirement for such use as would be required for such use as a new use of a building, structure or premises under the provisions of this chapter.
- (3) *New or expanded parking areas or loading areas.* Nothing in this chapter shall prevent the establishment of, or expansion of the amount of, parking areas or loading areas to serve any existing use of land or building, provided that all regulations herein governing the location, design, landscaping, construction and operation of such areas shall be adhered to.
- (4) *Damage or destruction.* For any nonconforming uses and structures or buildings ~~which that~~ are hereafter damaged or partially destroyed by fire or other naturally occurring disaster, provided the damage or destruction does not exceed two-thirds (2/3) of the gross floor area of the building, structure or facilities affected, and ~~which that~~ is reconstructed, off-street parking and loading spaces equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading spaces in excess of those required by this chapter for equivalent new use or construction.
- (5) *Control of off-site parking areas.* In cases where accessory parking areas are permitted on land other than the lot on which the building or use served is located, such areas shall be in the same control as the lot occupied by the building or use to which the parking areas are accessory.
- (6) *Submission of site plan.* Any application for an improvement location permit shall include a site plan, drawn to scale and fully dimensioned, complying with all requirements of Chapter 730, Article III of this Code. Such site plan shall further demonstrate compliance with all applicable standards of this chapter.
- (7) *Computation.* In determining the minimum required number of off-street parking spaces or loading spaces, when a computation of required parking spaces or loading spaces results in a fraction of one-half (1/2) or greater, the number of required parking spaces or loading spaces shall be rounded up to the next whole number.

(b) *Off-street parking regulations.* Off-street parking areas for motor vehicles shall be provided for all uses in the industrial districts in accordance with the following regulations, in addition to the requirements of section 733-210(a):

- (1) *Common or combined off-street accessory parking areas.* Common or combined off-street accessory parking areas for separate uses may be provided to serve two (2) or more primary buildings or uses, provided the total number of spaces so provided is not less than the sum of the separate requirements for each such use, and provided that all regulations governing location of accessory parking areas, in relation to the use served are adhered to.
- (2) *Minimum parking lot and parking spaces dimensions.*
  - a. The interior access drives, interior access driveways, drives, driveways, entrances, exits, aisles, bays and traffic circulation for parking lots shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York. The recommended specifications noted in Architectural Graphic Standards for access drives, interior access driveways, drives, driveways, entrances, aisles, bays and traffic circulation for parking lots are hereby incorporated into this chapter by reference and made a part hereof; except that minimum parking space (or stall) dimensions shall be provided as set forth below.
  - b. Each off-street parking space shall have, regardless of angle of parking, a usable parking space dimension measuring not less than nine (9) feet in width (measured perpendicularly from the sides of the parking space) and not less than eighteen (18) feet in length.

*Exception:* All parking spaces reserved for the use of physically handicapped persons shall have a usable parking space dimension measuring not less than thirteen (13) feet in width (measured perpendicularly from the side of the parking space) and not less than twenty (20) feet in length (see also section 733-210(b)(10), required parking spaces for the disabled).

- (3) *Access to and from parking areas.*

- a. Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
  - b. All off-street parking areas shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access. Off-street parking areas shall be designed and located so that vehicles shall not back from or into a public street or adjoining property, unless the lot and the adjoining property are located within the same industrial park and such maneuverability areas are subject to a recorded easement agreement allowing such maneuverability.
  - c. Plans and specifications for: 1) the width of access drives; 2) location of access drives from the nearest point of two (2) intersecting street rights-of-way; and 3) the design and location of frontage lanes and passing blisters, shall be submitted to, and written approval obtained from, the City of Indianapolis, Division of compliance bureau of license and permit services of the department of code enforcement or the Traffic Engineering Department having jurisdiction thereof. Such plans and specifications shall comply with the applicable standards and regulations of such division/department.
- (4) *Use of parking areas.*
- a. The parking area shall not be used for the storage, display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or material. The parking area shall not be used for the storage of any inoperable vehicles.
  - b. Buildings or structures for guards, attendants or watchmen shall be permitted; however, any such structure shall not occupy a required off-street parking space(s) and shall comply with all setback requirements for parking areas.
  - c. Loading spaces, as required in section 733-210, shall not constitute a required off-street parking space; nor shall any off-street parking area be used as a loading space or area.
- (5) *Location and setback.*
- a. All parking spaces required to serve buildings or uses erected or established after the effective date of this chapter shall be located on the same lot as the building or use served. Buildings or uses existing on the effective date of this chapter ~~which that~~ are subsequently altered or enlarged so as to require the provision of additional parking spaces under the requirements of this chapter may be served by parking spaces located on land other than the lot on which the building or use served is located, provided such spaces are within five hundred (500) feet of a lot line of the use served. (See control of off-site parking areas, section 733-210(a)(5)).
  - b. Front yards: Off-street parking may be located in minimum required front yards of I-1-S, I-2-S, I-3-S and I-4-S Districts, provided the total parking area does not occupy more than ten (10) percent of the total area of the minimum required front yard. In any industrial district, off-street parking may be located in front of the building, provided the parking area is located between the required front building setback line and the building.
  - c. Side and rear yards: Off-street parking may be located in required side and rear yards.
- (6) *Surface of parking area.*
- a. Off-street parking areas may be open to the sky, covered, or enclosed in a building. In any instance where a building is constructed or used for parking, it shall be treated as any other building or structure and subject to all use and development standards requirements of the applicable industrial district in addition to the requirements contained herein.
  - b. All off-street parking areas, and the access to and from such areas, shall be hardsurfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one (1) year after the commencement of the use for which the parking area is provided, where ground or weather conditions are not immediately suitable for permanent surfacing as specified above.
  - c. The parking area(s), where abutting a required landscaped yard or area, shall be designed and constructed in such a manner that no part of any parked vehicle shall extend beyond the boundary of the established parking area into any minimum required landscaped yard or area or onto adjoining property.
- (7) *Lighting of parking area.*

- a. When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.
  - b. In applying exterior lighting, equipment shall be of an appropriate type and be so located, shielded and directed that the distribution of light is confined to the area to be lighted.
  - c. Objectionable light on to adjacent properties and streets shall be avoided to prevent direct glare or disability glare.
  - d. Lighting levels for outdoor parking areas shall meet the following minimum average maintained horizontal factualness (as specified in Architectural Graphics Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York). The minimum average maintained horizontal factualness specified in Architectural Graphics Standards for lighting levels for outdoor parking areas are hereby incorporated into this chapter by reference and made a part hereof.
- (8) *Landscaping.* The ground area between the required off-street parking area setback and any lot line abutting a protected district shall be screened and landscaped in accordance with the requirements of section 733-211(e).
- (9) *Number of parking spaces required.*
- a. All uses permitted in the I-1-S, I-2-S, I-3-S, and I-4-S Districts shall provide a minimum of one (1) parking space for each one and one-half (1½) persons on the premises, computed on the basis of the greatest estimated number of persons at any one (1) period during the day or night.
  - b. All uses permitted in the I-1-U, I-2-U, I-3-U, and I-4-U Districts shall provide a minimum of one (1) parking space for each two (2) persons on the premises, computed on the basis of the greatest estimated number of persons at any one (1) period during the day or night.
- (10) *Required parking spaces for the disabled.* Every parking area available to the public shall have parking spaces reserved for the use of physically handicapped persons, as defined in section 733-213, according to the following schedule:

Total Required Number of Parking Spaces	Minimum Number of Reserved Spaces
0 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	Two (2) percent of the total number of parking spaces.
1001 and over	Twenty (20), plus one (1) for each one hundred (100) spaces over one thousand (1000).

- (c) *Off-street loading regulations.* Off-street loading areas accessory to uses in the industrial districts shall be provided and maintained in accordance with the following regulations, in addition to the requirements of section 733-210(a):

(1) *Minimum loading space dimensions.*

- a. A required off-street loading space shall be at least twelve (12) feet in width by at least fifty-five (55) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fifteen (15) feet.
- b. The interior access drives, interior access driveways, driveways, aisles, loading spaces and vehicular circulation and maneuvering for loading areas shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York. The recommended specifications noted in Architectural Graphic Standards for interior access drives, interior access driveways, driveways, aisles, loading spaces and vehicular circulation and maneuvering for loading areas are hereby incorporated into this chapter by reference and made a part hereof.

(2) *Access to and from loading area.*

- a. Each required off-street loading space shall open directly upon a hardsurfaced aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such loading space.
- b. All off-street loading areas shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access.
- c. Plans and specifications for: 1) the width of access drives; 2) location of access drives from the nearest point of two (2) intersecting street rights-of-way; and 3) the design and location of frontage lanes and passing blisters, shall be submitted to, and written approval obtained from, the ~~City of Indianapolis, Division of compliance~~ bureau of license and permit services of the department of code enforcement or the Traffic Engineering Department having jurisdiction thereof. Such plans and specifications shall comply with the applicable standards and regulations of such division/department.

(3) *Location and setback.*

- a. All required loading spaces shall be located on the same lot as the use served, and shall be so designed and located that trucks shall not back from or into a public street, or onto adjoining property unless the lot and the adjoining property are located within the same industrial park and such maneuverability areas are subject to a recorded easement agreement allowing such maneuverability.
- b. No open loading area or loading space shall be located in a minimum required front yard, minimum required front transitional yard or the area between the front lot line and the front line of the primary building.
- c. No loading area or loading space shall be located in a required side or rear transitional yard.

(4) *Screening.* All vehicle loading spaces on any lot abutting a protected district or separated by a public right-of-way from a protected district shall be enclosed within a building or screened and landscaped in addition to the industrial district's regulations for screening and landscaping transitional yards. Such screening and landscaping shall be installed as required in section 733-211(e).

(5) *Use of loading area.* Space allotted to off-street loading areas shall not be used to satisfy the off-street parking space requirements.

(6) *Surface of loading area.*

- a. Off-street loading areas may be open to the sky, covered or enclosed in a building. In any instance where a building is constructed or used for loading, it shall be treated as any other structure and shall be subject to all use and development standards of the applicable industrial district in addition to the requirements contained herein.
- b. All loading areas shall be hardsurfaced to adequately provide a durable and dust-free surface except that:
  1. A gravel surface may be used for a temporary period not exceeding one (1) year after commencement of the use for which the loading area is provided, where ground and weather conditions are not immediately suitable for permanent surfacing as specified above.

- 2. A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals ~~which that~~ create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.
- c. The surface shall be graded, constructed and drained in such a manner that there will be no detrimental flow of water onto adjacent properties or public sidewalks.
- (7) *Lighting of loading area.* When a loading area is illuminated, the lighting equipment shall be so located, shielded, and directed so that the lighting distribution is confined to the area to be lighted. Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.
- (8) *Required loading spaces.* Off-street loading spaces shall be provided and maintained in accordance with the following minimum requirements for all industrial districts.

Gross Floor Area of Building (Sq. Ft.)	Required Number of Loading Spaces
1-- 40,000	1
40,001--100,000	2
100,001--200,000	3

For each additional two hundred thousand (200,000) square feet of gross floor area or fraction thereof, one (1) additional loading space shall be provided.

SECTION 11. Section 734-305 of the "Revised Code of the Consolidated City and County," regarding sign regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 734-305. On-premises signs; central business district signs (CBD-1, CBD-2, CBD-3 and CBDS).

The following regulations shall pertain to on-premises business signs in all CBD districts where permitted by section 734-500, Table D, and this section. Off-premises (outdoor advertising) signs in the CBD districts also shall follow the regulations of section 734-306.

Any on-premises business sign erected on a building or lot located within a locally designated historic preservation area as established by, and under the jurisdiction of, the Indianapolis Historic Preservation Commission (IHPC) shall be exempt from the provisions of this section of this chapter. The type, number, area, height, illumination and location of such signs located within such historic preservation areas shall be as determined by the IHPC. The specific standards and requirements for on-premises business signs shall be as set forth in and specified by the grant of a certificate of appropriateness following all procedures set forth by the IHPC.

- (a) *Regulations for freestanding identification signs.*
  - (1) *Where permitted.*
    - a. Pole or pylon signs:
      - 1. Shall be permitted only for surface parking lots in the CBD-1 and CBD-2 Districts.
      - 2. Shall be permitted in the CBD-3 District only for surface parking lots. In no case, however, shall pole or pylon signs be permitted on the street frontage of any lot abutting American Legion Mall, Veterans Memorial Plaza, the Indiana War Memorial or University Park.
      - 3. Shall be permitted in the CBD-S District.
    - b. Ground signs shall be permitted in all CBD districts.
  - (2) *Maximum sign height.*
    - a. *Pole or pylon signs:* The maximum height of a pole or pylon sign and its supporting structure shall not exceed twenty (20) feet above grade level at the base of such structure, subject to the provisions of section 734-304(g), grade mounding.

- b. *Ground signs:* No part of the sign face or the sign support structure of a ground sign shall be more than four (4) feet above grade level, subject to the provisions of section 734-204(g), grade mounding.
- (3) *Minimum setbacks, front.*
- a. The minimum setback for freestanding identification pole or pylon signs shall be ten (10) feet from the existing street right-of-way line, provided, however, the provisions of subsection (a)(3)c. below shall also be met.
- b. The maximum setback for freestanding identification ground signs shall be zero (0) feet from the existing street right-of-way line, provided, however, the provisions of subsection (a)(3)c. below shall also be met.
- c. No freestanding identification sign shall be erected within any area designated by the Thoroughfare Plan for Marion County as required for right-of-way for a public street unless the owner of such sign provides a written commitment to the Department of Metropolitan Development to relocate such sign out of the right-of-way at ~~his/her~~ his or her expense upon the acquisition of the property by the applicable governmental agency for transportation purposes and shall waive all claims to damages or compensation by reason of the existence or relocation of the sign.
- (4) *Minimum setbacks, side and rear.* If illuminated, no freestanding identification sign facing the side or rear lot line of an abutting lot zoned as a dwelling district shall be located within fifty (50) feet of such side or rear lot line.
- Exception:* This provision shall not apply if it can be determined that:
- a. A commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon adjoining property or abutting frontage property, although zoned as a dwelling district.
- b. The illuminated sign is visibly obstructed from the dwelling district.
- (5) *Maximum sign area.* The sign surface area of a freestanding identification sign shall not exceed one (1) square foot in sign surface area for each lineal foot of that lot's street frontage (to which the sign is oriented). In no case, however, shall the maximum sign surface area exceed one hundred (100) square feet.
- (6) *Number of signs.* One (1) freestanding identification sign shall be allowed for each frontage on a separate street.

*Exceptions:*

- a. *Extensive frontage.* Where a lot has in excess of three hundred (300) feet of street frontage on the same street, one (1) additional freestanding identification sign shall be allowed for each additional three hundred (300) feet of street frontage on that street. Such additional signs shall be subject to all other provisions of this chapter. In no event shall an additional freestanding identification sign, as permitted in this section, be located any closer than three hundred (300) feet to any other freestanding identification sign on the same lot (refer to Diagram 15).
- b. *Corner lots.* On corner lots, the maximum number and square footage of freestanding identification signs shall be permitted for each street frontage. Such maximum allowances, however, shall not be transferable either in whole or in part from one (1) street to another.
- (b) *Regulations for building identification signs.*
- (1) *Lower level building identification signs.* Signs located on:
- The first twenty-six (26) feet of building height; or
  - The actual building height, whichever is lesser (measured from grade), shall be considered lower level building identification signs and shall conform to the following regulations.
- a. *Maximum size for lower level building identification signs.* The maximum sign surface area for lower level building identification signs shall not exceed twenty (20) percent of the facade as noted in the formula below:

$$\text{Maximum permitted sign surface area} = 20\% (A \times B)$$

$$A = \text{Twenty-six (26) feet or the height of the building, whichever is lesser.}$$

B = Width of the facade (measured in feet) on which the sign is to be placed.

(The application of this provision is illustrated in Diagram 17).

- b. *Number of lower level building identification signs.* One (1) sign for each basement, grade level or second story occupant of the building shall be permitted.

*Exception:* Buildings in which a single tenant occupies the entire basement, grade level or second story leasable space, or a leasable space with two hundred (200) or more linear feet of street frontage, may have an additional lower level building identification sign on that street frontage only. Provided, the maximum sign surface area permitted for that facade, as noted in subsection (b)(1)a.1. above shall not be exceeded for the total number of lower level building identification signs.

- c. *Location of lower level building identification signs.* Lower level wall signs shall be located only on facades ~~which~~ that front on a street.

- d. *Lower level building identification signs on corner lots or lots which that have multiple street frontages.* On buildings having more than one (1) street frontage, the maximum allowable square footage of lower level building identification signs shall be permitted for each building frontage. Such maximum allowance, however, is not transferable either in whole or in part from one (1) building to another nor from one (1) occupancy to another occupancy.

- e. *Distance from side or rear lot line when abutting a dwelling district.* If illuminated, no building identification sign facing the side or rear lot line of an abutting lot zoned as a dwelling district shall be located within fifty (50) feet of such side or rear lot line.

*Exception:* This provision shall not apply if it can be determined that:

1. A commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon adjoining property or abutting frontage property, although zoned as a dwelling district; or
2. The illuminated sign is visibly obstructed from the dwelling district.

- (2) *Upper level building identification signs.* Signs located on a building facade above twenty-six (26) feet in height, measured from grade, shall be considered upper level building identification signs and shall conform to the following regulations:

- a. *Placement.* Upper level building identification signs shall be located on a facade above a height of twenty-six (26) feet, measured from the grade level.
- b. *Maximum size for upper level building identification signs.* The maximum sign surface area for upper level building identification signs shall not exceed ten (10) percent of the facade as noted in the formula below:

Maximum permitted sign surface area = 10% (A × B)<sub>2</sub>

A = height of building (measured from grade, in feet). This figure shall be reduced by subtracting the first twenty-six (26) feet in height of the building, measured from grade level.

B = width of the facade (measured in feet) on which the sign is to be placed.

(The application of this provision is illustrated in Diagram 17).

- c. *Number of upper level building identification signs.* One (1) sign for each facade of the building shall be permitted, provided the maximum sign surface area permitted for that facade, as noted in subsection (b)(1)a.1. above is not exceeded. These signs may identify either the name of the building or a tenant of that building.

- d. *Location of upper level building identification signs.* Upper level building identification signs shall be located on any facade or architectural elevation of the building. Provided, however, that on buildings having upper level building identification signs on more than one (1) facade, the maximum allowance for a facade is not transferable either in whole or in part from one (1) building to another nor from one (1) occupancy to another occupancy.

- (3) *Wall signs.* Wall signs shall be of individual letter construction in the CBD-1 and CBD-3 Districts. Where construction materials/methods of buildings would pose practical difficulties for the erection of individual letter wall signs, raceways can be used on which the individual letters can be mounted.

- (4) *Roof signs.* Roof signs shall not be permitted in any CBD district.

*Exception:* Signs that are painted on, or otherwise attached flat and directly to, the roof structure, and ~~which that~~ do not extend vertically from the roof structure, shall be permitted on public buildings (those buildings owned, operated, controlled or under some jurisdiction of a unit of federal, state or local government). Signs permitted under this exception shall be regulated as upper level business signs for purposes of sign surface area and number.

- (5) *Roof-integral signs.*

- a. *Where permitted.* Roof integral signs shall be permitted in the CBD-2, CBD-3 and CBD-S Districts.
- b. *Maximum sign area.* Same as section 734-303(b)(1).
- c. *Number of signs.* One (1) roof-integral sign shall be permitted per each building facade (if a single use) or tenant space (if an integrated center), subject to the provisions of section 734-303(b)(1)b.
- d. *Distance from side or rear lot line when abutting a dwelling district.* An illuminated roof-integral sign shall not be permitted within fifty (50) feet of a side or rear lot line of an abutting lot line zoned as a dwelling district when such sign faces such side or rear lot line.

*Exception:* This provision shall not apply if it can be determined that:

1. A commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon adjoining property or abutting frontage property, although zoned as dwelling district.
2. The illuminated roof-integral sign is visibly obstructed from the dwelling district.

- (6) *Projecting signs.*

- a. *Where permitted.* Projecting signs shall be permitted in any CBD district, except in the CBD-1 District on lots ~~which that~~ front Monument Circle. Projecting signs shall be permitted as lower level signs only for basement, grade level or second story occupants of the building.
- b. *Maximum sign area.* The sign surface area of a projecting sign shall not exceed twenty-four (24) square feet.
- c. *Number of signs and placement.* One (1) projecting sign shall be permitted per tenant space, to be placed on the building facade from which the tenant gains direct access into their business.
- d. Maximum projection from a building and minimum front setback.
  1. No projecting sign or sign structure shall extend more than eight (8) feet from or beyond its supporting building.

*Exception:* A projecting sign or sign structure shall not extend more than three (3) feet from or beyond its supporting building when such sign or structure is located on and oriented toward East or West Market Street between Capitol Avenue and Alabama Street.

2. The horizontal projection of any projecting sign may extend to a point not closer than two (2) feet from an imaginary perpendicular vertical plane at the street pavement line, curb or outside edge of the sidewalk. Refer to Diagram 11 for illustrative guides to these provisions.
- e. *Clearance from grade.* All portions of a projecting sign or sign structure shall be not less than eight (8) feet above the finished grade.

- (7) *Awning or canopy signs.* Awning or canopy signs shall be permitted in any CBD district subject to the regulations of section 734-400, awning and canopy sign regulations.

*Exception:* An awning or canopy sign or sign structure shall not extend more than three (3) feet from or beyond its supporting building when such sign or structure is located on and oriented toward East or West Market Street between Capitol Avenue and Alabama Street.

- (8) *Marquee signs.* Marquee signs shall be permitted in any CBD district subject to the regulations of section 734-401, marquee sign regulations.

*Exception:* A marquee sign or sign structure shall not extend more than three (3) feet from or beyond its supporting building when such sign or structure is located on and oriented toward East or West Market Street between Capitol Avenue and Alabama Street.

(9) *Suspended signs.*

- a. *Where permitted.* Suspended signs shall be permitted in any CBD district.
- b. *Maximum sign area.* The maximum sign surface area for a suspended sign shall not exceed five (5) square feet.
- c. *Number of signs.* One (1) suspended sign shall be permitted per each building facade (if a single use) or grade level tenant space (if an integrated center).
- d. *Clearance from grade.* All portions of any suspended sign or sign structure shall be not less than eight (8) feet above the finished grade.

Refer to Diagram 13 for illustrative guides to these provisions.

(c) *Regulations for incidental signs.* Incidental signs shall be permitted in any CBD district subject to the regulations of section 734-303(c), incidental signs.

(d) *Window signs.*

- (1) *Where permitted.* Window signs shall be permitted in any CBD District.
- (2) *Maximum sign area.* The sign copy area of window signs shall not exceed twenty (20) percent of the window surface area on which it is placed or through which it is viewed, however, in no case shall the sign copy area exceed one hundred (100) square feet.

The sign surface area of window signs shall be calculated separately from the calculation of other signs and shall not be included in the total area of other signs permitted.

The administrator, upon request by the applicant, shall have the power to modify the requirements of this provision and approve alternatives for those requirements as long as the alternative plan is appropriate for the site and its surroundings and is compatible and consistent with the intent of the stated standards. Such modification shall be noted on the alternative plan, stamped approved by the administrator and become a part of the requirements for the improvement location permit. Under no circumstances, however, shall the administrator modify the content of a sign.

(e) *Special regulations for promotional banners.* Temporary promotional banners, located on permanent banner poles or on street light standards structurally modified to accommodate banners, erected by or sanctioned by the City of Indianapolis, shall be permitted in the CBD-1, CBD-2, CBD-3 and CBD-S Districts. Only such banners promoting community activities, cultural or sports programs important to the city's image or economy; or not-for-profit organizations serving the community shall be permitted under this provision. Individual promotional banners may be displayed for a maximum of thirty (30) days. Banners shall not exceed thirty (30) inches wide and eighty-five (85) inches long. A banner program, indicating location of permanent banner poles or street light standards and size of promotional banners to be displayed, shall be submitted for regional center review and approval. The banner program shall also be submitted to the division of ~~compliance~~ inspections of the department of code enforcement for its review and approval, if banner poles are proposed to be located within the public right-of-way. Once a banner program has been approved, individual temporary banners shall not require additional approval. Any changes to the banner program, however, shall require the appropriate agency review and approval. An ILP shall not be required if the provisions noted above are satisfied.

SECTION 12. Sections 735-300 through 735-307, inclusive, of the "Revised Code of the Consolidated City and County," regarding flood control district zoning regulations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

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

(a) *Establishment of the official zoning map.*

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The director of the department of metropolitan development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the

official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.

- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

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

Flood Control Zoning Districts	Zoning District Symbols
Floodway (secondary)	FW
Floodway Fringe (secondary)	FF

(c) The district boundaries have been established from hydrological data delineated on flood insurance rate maps provided by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Marion County, Indiana, and Incorporated Areas," dated July 5, 2005 (and as subsequently amended). Topographic-based floodplain maps ~~which that~~ may be developed by the city and approved for use by FEMA may be used as best available data to supplement FEMA's flood insurance rate maps, in accordance with FEMA and IDNR procedures and regulations. These maps contain zone AE floodplain areas for which floodway district boundaries and base flood elevations are provided, zone AH floodplain areas for which base flood elevations are provided, zone AO floodplain areas for which base flood elevations are not provided, and zone A floodplain areas for which floodway district boundaries and base flood elevations are not provided. Each of the aforementioned maps also contain shaded zone X floodplain areas ~~which that~~ depict areas subject to flooding in the headwaters of a stream, the five hundred-year frequency floodplain collar outside of the one-hundred-year frequency zone AE area, and land subject to shallow flood depths of less than one (1) foot. The district boundaries and base flood elevations for mapped areas shall be determined as follows:

- (1) *Zone AE:* The floodway fringe (FF) zone district boundary is determined by applying the base flood elevations from the flood insurance study base profiles to the specific topography of a site/parcel/property. The floodway (FW) district boundary is determined from the flood insurance rate map. The base flood elevation shall be determined from the flood insurance study base flood profile, and is rounded up to the nearest one-half (1/2) foot elevation.
- (2) *Zone AH and zone AO:* In zone AH floodplain areas, the base flood elevation shown on the flood insurance rate map shall be used. In zone AO areas, the base flood elevation shall be determined by adding the depth number specified in feet on the flood insurance rate map (two (2) feet, if no depth number is specified) to the highest ground elevation at the site.
- (3) *Zone A:* Because this mapped area depicts only the approximate base flood boundary, the floodway (FW) district boundary, floodway fringe (FF) district boundary, and base flood elevation must be established through a site-specific engineering analysis using a method acceptable to ~~DMD the bureau of license and permit services of the department of code enforcement~~ or a floodplain recommendation letter issued by IDNR containing specific reference to the site in question. It is the responsibility of the applicant applying for a floodplain development permit to provide the requisite engineering analysis to ~~DMD the bureau of license and permit services~~ or to obtain a floodplain recommendation letter from IDNR.
- (4) *Zone X:* Zone X areas (shaded or unshaded) are not designated by FEMA as special flood hazard areas and are not regulated by this article.

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

forth in section 735-301 of this article.

Sec. 735-301. Changes to district boundaries.

(a) Procedures to change the floodway and floodway fringe district boundaries, with or without an accompanying base flood elevation change, may be initiated in certain circumstances, including but not limited to: Determination of original mapping error; physical change to the landscape such as filling, excavating or grading; modification of a channel or bridge ~~which that~~ changes the hydraulic or hydrologic characteristics of the watercourse; availability of better topographic base mapping ~~which that~~ more accurately depicts the floodplain limits; and development of detailed hydrological data for previously unstudied zone A areas. In addition, an owner or lessee of property who believes his or her property has been wrongly designated in a particular flood control zoning district may apply for a district boundary change in accordance with this section.

(b) Changes to the floodway (FW) district boundary, floodway fringe (FF) district boundary, and the accompanying base flood elevations must be approved by FEMA through a letter of map revision (LOMR) or letter of map amendment (LOMA) in accordance with procedures established by FEMA, before the revised maps and data shall be used under this article. Detailed study data, developed for sites located in zone A areas pursuant to section 735-300 as best available data, will generally not be acknowledged by FEMA for flood insurance determinations or result in district boundary revisions unless an official LOMR or LOMA is issued by FEMA ~~which that~~ specifies such changes.

(c) ~~DMD~~ The bureau of license and permit services of the department of code enforcement shall review all LOMR and LOMA applications for completeness pursuant to FEMA regulations and procedures and verify that the subject project has satisfied the regulatory requirements of this article. Upon verification, ~~DMD~~ the bureau of license and permit services shall issue a signed community acknowledgement to the applicant as required by FEMA. If the LOMR or LOMA application is based on a channel improvement or other physical change to the floodplain ~~which that~~ requires continual operation and maintenance as a condition of the issuance of the LOMR or LOMA by FEMA, ~~DMD~~ the bureau of license and permit services may require the applicant to enter into an agreement with ~~DMD~~ the bureau of license and permit services to provide such operation and maintenance.

(d) Any changes in the floodway district boundary must be reported to FEMA by the applicant within six (6) months of construction with a copy forwarded to ~~DMD~~ the bureau of license and permit services. ~~DMD~~ The bureau of license and permit services shall be responsible for maintaining up-to-date floodplain maps including any amending LOMRs and LOMAs and shall coordinate efforts with IDNR, FEMA and applicants to solve mapping conflicts using the best available hydrologic, hydraulic and topographic data.

(e) By reference the Metropolitan Development Commission and the city-county council must acknowledge all floodway (FW) and floodway fringe (FF) district boundary relocations and base flood elevation revisions approved by FEMA through the issuance of LOMR and LOMAs as changes to the official zoning map.

(f) All letters of map amendment (LOMA) and letters of map revisions (LOMR) approved and issued by the Federal Emergency Management Agency (FEMA) from September 2, 1992 until July 5, 2005 shall be incorporated as map amendments to the applicable flood control districts boundaries (said letters [LOMA and LOMR] are incorporated by reference and made a part of this article).

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

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

- (1) From and after October 4, 1971:
  - a. No land, watercourse, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this article.
  - b. No land, watercourse, building, structure, premises, use or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed, relocated, altered, improved, or repaired except in conformity with these regulations and for uses permitted by this article.
- (2) No land alteration, watercourse alteration, open land use, legally established nonconforming use, or structure as defined in this article shall be constructed, erected, placed, converted, enlarged, extended, reconstructed, improved, repaired, restored, or relocated until a floodplain development permit is issued for the proposed activity as required by this article.
- (3) Application for a floodplain development permit shall be made on a form provided by ~~DMD~~ the bureau of license and permit services. The application shall be accompanied by drawings

of the site drawn to scale ~~which~~ that depict the proposed activity in a manner adequate for ~~DMD the bureau of license and permit services~~ to determine compliance with this article. At a minimum, the site plan shall show: All existing and proposed structures; existing and proposed contours (if the proposed activity includes land alteration or watercourse alteration), the governing base flood elevation for the site (including the source of the base flood elevation value); and the proposed flood protection grade elevation (if the proposed activity requires a specified flood protection grade under this article).

Site plans for all platted subdivisions shall also include a delineation of the existing and proposed floodway and floodway fringe boundaries; a flood protection grade denoted for each building pad; and, for each lot located in a flood control district, a plan note identifying the flood control district in which it is located and the requirements and limitations imposed under this article for construction on the floodplain lot.

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

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

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

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

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

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

for approval.

- b. The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor and shall be subject to any written orders issued by ~~DMD~~ the bureau of license and permit services.
  - c. A permit or design approval may not be transferred from the specified location to another location.
- (13) Expiration of floodplain development permits by operation of law.
- a. If construction activity, other than activity involving the removal of all or part of a structure, has not been commenced within one hundred eighty (180) days from the date of issuance of the floodplain development permit, the permit shall expire by operation of law and shall no longer be of any force or effect; provided, however, ~~DMD~~ the bureau of license and permit services may, for good cause shown in writing, extend the validity of any such permit for an additional period ~~which that~~ is reasonable under the circumstances, but in no event shall the continuance exceed a period of sixty (60) days. Such extension shall be confirmed in writing.
  - b. If the construction activity has been commenced but only partially completed, and thereafter substantially no construction activity occurs on the construction site over a period of one hundred eighty (180) days, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, ~~DMD~~ the bureau of license and permit services may, for good cause shown in writing, extend the validity of any such permit for an additional period ~~which that~~ is reasonable under the circumstances to allow of construction activity.

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

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

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

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

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

(b) *Development standards.*

- (1) Open land use. An open land use as defined in this article shall be allowed without a floodplain development permit provided that the open land use does not constitute or involve any structure, obstruction, deposit, construction, excavation, or filling in a floodway in accordance with IDNR regulations. Otherwise, proposed open land uses shall require a floodplain development permit in accordance with this subsection.
- (2) Land and watercourse alterations. Land alterations and watercourse alterations as defined in this article shall not result in any new or additional public or private expense for flood protection; shall assure that the flood carrying capacity is maintained and shall not increase flood elevations, velocities, or erosion upstream, downstream or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.

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

- (3) Nonbuilding structures. Nonbuilding structures as defined in this article shall be permitted in a floodway only under the following conditions:
- a. The nonbuilding structure is designed, located, and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood;
  - b. The nonbuilding structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood;
  - c. The nonbuilding structure is designed to minimize potential contamination or infiltration of floodwaters or other potential environmental health or safety hazards associated with flooding up to and including the base flood;
  - d. The nonbuilding structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross-section area perpendicular to the flow path, and placement of the nonbuilding structure away from areas of greater depth or velocities;
  - e. The IDNR has first issued a certificate of approval of construction in a floodway, if applicable pursuant of IC 14-28-1; and
  - f. The nonbuilding structure must meet the applicable flood protection grade required by IDNR and FEMA rules.
- (4) Detached residential accessory structures, the total square footage being equal to or less than four hundred (400) square feet, may be erected in a floodway with or without a flood protection grade two (2) feet above the base flood elevation only if the following conditions are met.
- a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
  - b. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
  - c. The detached structure is no larger than seventy-five (75) percent of the size of the existing primary residential structure;
  - d. The detached structure shall never be used in total, or in part, for habitable space;
  - e. Any electrical wiring and any heating, cooling or other major appliance in the detached structure is located above the base flood elevation and the detached structure is not used for the storage of any substance or chemical ~~which~~ that is dangerous or would become dangerous if mixed with water;
  - f. The IDNR has first issued a certificate of approval of construction in a floodway; and
  - g. As a condition to allowing construction of a detached residential accessory structure, ~~DMD~~ the bureau of license and permit services may first require the owner to record a statement, in a form approved by ~~DMD~~ the bureau, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
- (5) Legally established nonconforming uses in a floodway (FW) district. Nothing stated in this subsection shall prevent ordinary maintenance or repair of legally established nonconforming uses as defined in this article. The cost of ordinary maintenance and repair of building or structures is not counted toward the fifty (50) percent limit for determining substantial improvement, restoration of substantial damage or substantial addition as defined herein.
- a. *Restoration of damage.*
    1. Nonsubstantial damage: A legally established nonconforming use ~~which~~ that has been damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to its original dimension and condition provided that the damage is nonsubstantial damage as defined in this article and a certificate of approval of construction in a floodway, if required in accordance with IDNR rules, is first obtained from IDNR.
    2. Substantial damage: A legally established nonconforming use ~~which~~ that is substantially damaged as defined in this article may only be restored if the following

conditions are satisfied:

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

b. *Improvements.*

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

c. *Additions.*

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

Subsequent additions shall be subject to the requirements and limitations of this article applicable to substantial additions.

2. Substantial addition: A substantial addition to a legally established nonconforming use in a floodway (FW) district is prohibited.

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

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

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

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

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

(b) *Development standards.*

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

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

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

- (2) Open land use. Any open land use as defined in this article shall be allowed in a floodway fringe district without a floodplain development permit.
- (3) Land and watercourse alterations. Land alterations and watercourse alterations in a floodway fringe district shall not result in any new or additional public or private expense for flood protection; shall not increase flood elevations or reduce flood carrying capacity; shall not increase velocities or erosion upstream, downstream, or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.
- (4) Nonbuilding structures. Nonbuilding structures as defined in this article shall be allowed in a floodway fringe district only if constructed in a manner that will not impede the flow of floodwater and debris carried by floodwater, and the following conditions are met:
  - a. The nonbuilding structure is designed, located and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood;
  - b. The nonbuilding structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood;
  - c. The nonbuilding structure is designed to minimize potential contamination or infiltration of floodwaters or other potential environmental or safety hazards associated with flooding up to and including the base flood;
  - d. The nonbuilding structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross-section perpendicular to the flow path, and placement of the nonbuilding structure away from areas of greater depth or velocities.
  - e. The nonbuilding structure must meet the applicable flood protection grade required by IDNR and FEMA rules.
- (5) Detached residential accessory structures. Detached residential accessory structures larger than four hundred (400) square feet in a floodway fringe district must be provided with a flood protection grade of at least two (2) feet above the base flood elevation. Detached residential accessory structures, the total square footage being equal to or smaller than four hundred (400) square feet may be erected in a floodway fringe district above or below the flood protection

grade only if the following conditions are met:

- a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
  - b. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
  - c. The detached structure is no larger than seventy-five (75) percent of the size of the existing primary residential structure;
  - d. The detached structure shall never be used in total, or in part, for habitable space;
  - e. Any electrical wiring and any heating, cooling or other major appliance in the detached structure is located above the base flood elevation and the detached structure is not used for the storage of any substance or chemical ~~which~~ that is dangerous or would become dangerous if mixed with water; and
  - f. As a condition to allowing a detached residential accessory structure, the ~~DMD~~ the bureau of license and permit services may require the owner to record a statement, in a form approved by ~~DMD~~ the bureau, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
- (6) Attached nonhabitable residential accessory enclosures. Attached nonhabitable accessory enclosures may be constructed in a floodway fringe district as a part of one-family, two-family, or multifamily structures only under the following conditions:
- a. All parts of the building or structure other than the attached nonhabitable accessory enclosure shall be erected, constructed, reconstructed, expanded, structurally altered, converted, used or relocated in compliance with this subsection 735-304(b);
  - b. The attached nonhabitable accessory enclosure is attached to or part of the primary residential structure and is operated and maintained under the same ownership;
  - c. The attached nonhabitable accessory enclosure is customarily incidental, accessory and subordinate to, and commonly associated with the use of the primary residential structure;
  - d. The attached nonhabitable accessory enclosure is not used in total or in part as habitable space, but is solely for parking vehicles, building access or storage of materials not covered under standard flood insurance policy;
  - e. As a condition to allowing an attached nonhabitable accessory enclosure, the ~~DMD~~ the bureau of license and permit services shall require the owner to record a statement, in a form approved by ~~DMD~~ the bureau, indicating that the attached nonhabitable accessory enclosure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the deed and shall be binding on all subsequent owners;
  - f. Any electrical wiring and any heating, cooling or other major appliance or equipment in the attached nonhabitable accessory enclosure is located above the base flood elevation and the attached nonhabitable accessory enclosure is not used for the storage of any substance or chemical ~~which~~ that is dangerous or would become dangerous if mixed with water; and
  - g. The exterior walls of the attached nonhabitable accessory enclosure shall be constructed with a material ~~which~~ that will maintain its structural integrity during and after exposure to floodwaters and be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must meet the following minimum criteria:
    1. A minimum of two (2) wall openings having a total net area of not less than one (1) square foot for every two (2) square feet of enclosed area subject to flooding shall be provided;
    2. The bottoms of all openings shall be no higher than one (1) foot above the flood level of the enclosure or no greater than one (1) foot above grade, whichever is less; and
    3. Openings may be equipped with screens, louvers, valves or other coverings or

devices provided that they permit the automatic entry and exit of floodwaters without reliance on human or electrical activation; and

- h. Attached nonhabitable accessory enclosures that are also legally established nonconforming uses pursuant to subsection 735-304(b)(8) shall not be subject to the requirements of subsection 735-304(b)(6).

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

- a. Manufactured home dwellings and mobile dwellings that are placed or undergo substantial improvements or substantial additions on sites outside of a mobile dwelling project, in a new mobile dwelling project or subdivision, in an expansion to an existing mobile dwelling project or subdivision, or in an existing mobile dwelling project or subdivision on which a manufactured home dwelling or mobile dwelling has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home dwelling or mobile dwelling is elevated with a flood protection grade at least two (2) feet above the base flood and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- b. Manufactured home dwellings and mobile dwellings that are placed or undergo substantial improvements or substantial additions on sites in an existing mobile dwelling project or subdivision on which a manufactured home dwelling or mobile dwelling has not incurred substantial damage as the result of a flood, shall be elevated so that either the lowest floor of the manufactured home dwelling or mobile dwelling is elevated with a flood protection grade at least two (2) feet above the base flood or the manufactured home dwelling or mobile dwelling chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to a foundation system to resist flotation, collapse and lateral movement.
- c. Recreational vehicles placed on sites in the floodway fringe for one hundred eighty (180) consecutive days or more shall be subject to the requirements for manufactured home dwellings and mobile dwellings contained in this article. Recreational vehicles placed on sites in the floodway fringe shall not be subject to requirements for manufactured home dwellings and mobile dwellings contained in this article and shall not require a floodplain development permit if the recreational vehicle is either placed on the site for fewer than one hundred eighty (180) consecutive days or is fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

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

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

a. *Restoration of damage.*

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

b. *Improvements.*

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

2. Substantial improvements: A legally established nonconforming use may undergo a substantial addition if the addition is provided with a flood protection grade of at least two (2) feet above the base flood.
- c. *Additions.*
1. Nonsubstantial addition: A legally established nonconforming use in a floodway fringe district may undergo a one-time only nonsubstantial addition provided that a covenant indicating that "a one-time non-substantial addition to the structure has taken place and that any subsequent improvements or additions shall be subject to the requirements and limitations of this article applicable to substantial additions" shall be recorded in the office of the recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
  2. Substantial addition: A legally established nonconforming use may only undergo a substantial addition if the addition is provided with a flood protection grade of at least two (2) feet above the base flood elevation.
- (9) Draining of land; altering of watercourses; construction of ponds, lakes, levee, dams. No draining or reclamation of land; altering, widening, deepening or filling of watercourses or drainage channels or ways; construction of ponds, lakes, levees, or dams; or any other changes or improvements of watercourses or drainage channels or ways shall be undertaken in the floodway fringe district unless first approved by the IDNR, if applicable, and any other local, state or federal agencies having jurisdiction over such activity.
- (10) Construction of new access roads. If the proposed activity includes the construction of a new access road between proposed buildings to be located in the floodway fringe district and a public road, and the public road at the intersection with the proposed access road is at or above the base flood elevation, then the proposed access road must also be at or above the base flood elevation along the entire length between any proposed building and the public road. If there is more than one (1) access road between the public road and any proposed building, only one (1) must provide access at or above the base flood elevation.

Sec. 735-305. Variances.

- (a) The Board of Zoning Appeals may only issue a variance to the permitted uses or development standards of the floodway (FW) or floodway fringe (FF) districts if the applicant submits evidence that:
- (1) There exists a good and sufficient cause for the requested variance;
  - (2) The strict application of the terms of this article will constitute an exceptional hardship to the applicant;
  - (3) The grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with other applicable law or ordinances.
- (b) The board of zoning appeals may only issue a variance to the permitted uses of development standards of the floodway (FW) or floodway fringe (FF) districts subject to the following conditions:
- (1) No variance for the construction of a new residential structure in a floodway (FW) district may be granted;
  - (2) Any variance granted for a use in a floodway (FW) district shall first require a permit from IDNR, if such permit is required by IDNR rules and procedures;
  - (3) Variances to the flood protection grade requirements may be granted only when a new structure is to be located on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;
  - (4) Variances may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects, subject to the condition that such variance will not preclude the structure's continued designation as an historic structure and that the variance is the minimum necessary to preserve the historic character;
  - (5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
  - (6) ~~DMD~~ The department of metropolitan development shall issue a written notice to the recipient

of a variance that the proposed construction will be subject to increased risks of life and property and could require payment of increased flood insurance premiums.

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

(a) ~~DMD~~ The bureau of license and permit services shall review all applications for a floodplain development permit for all sites ~~which~~ that have been identified by ~~DMD~~ the bureau as lying in a flood control district. ~~DMD~~ The bureau of license and permit services shall verify that the site is in a flood control district by referring to the flood insurance rate map. In cases where the floodplain status of the site cannot be fully determined through the use of these maps, ~~DMD~~ the bureau shall use the best available data to determine the floodplain status of the site, in accordance with section 735-300 of this article.

(b) If the permit application is for a site located in an identified floodway (FW) district, then ~~DMD~~ the bureau of license and permit services shall direct the applicant to apply to IDNR for a state permit for construction in a floodway. A floodplain development permit shall not be issued for the proposed activity until the IDNR has issued a certificate of approval of construction in a floodway or a letter stating that IDNR approval is not required, and ~~DMD~~ the bureau determines that the application complies with all other applicable requirements of this article.

(c) If the permit application is for a site located in a floodway fringe (FF) district, then ~~DMD~~ the bureau of license and permit services may approve the application upon compliance with the applicable requirements of this article.

(d) In both floodway (FW) and floodway fringe (FF) districts, ~~DMD~~ the bureau of license and permit services will require such modifications to the design and materials of the proposed activity, as ~~DMD~~ the bureau may deem appropriate under this article.

(e) In reviewing applications for floodplain development permits for compliance with the requirements of this article, ~~DMD~~ the bureau of license and permit services shall assure that all necessary permits related to floodplain management objectives from state, federal, and local agencies have been obtained.

(f) Records of floodplain development permits.

(1) ~~DMD~~ The bureau of license and permit services will maintain a file of all floodplain development permits issued in a flood control district.

(2) ~~DMD~~ The bureau of license and permit services will make these floodplain development permits available to representatives of FEMA, IDNR and other interested parties.

(g) NFIP elevation certificates.

(1) ~~DMD~~ The bureau of license and permit services will file the NFIP elevation certificate, and the floodproofing certificate if applicable, for each building and structure in a flood control district with the floodplain development permit.

(2) ~~DMD~~ The bureau of license and permit services will make available to insurance agents and lenders, upon request, copies of the NFIP elevation certificate and the floodproofing certificate to assist in the actuarial rating of the structure for flood insurance purposes.

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

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

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

SECTION 13. Sections 735-309 and 735-310 of the "Revised Code of the Consolidated City and County," regarding flood control district zoning regulations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 735-309. Violations.

(a) Construction or development authorized by the floodplain development permit shall proceed according to the requirements of this article, the development plan and supporting documents filed with said permit application, and the conditions of an applicable variance grant to the requirements of this article. If ~~DMD~~ the bureau of license and permit services determines that construction or development is proceeding or has proceeded in violation of this article, the development plan or supporting documents, or variance grant, or that the permit was issued in violation of an ordinance or the conditions of such variance grant, ~~DMD~~ the bureau may revoke said permit. Written notice of the revocation shall be provided to the permit applicant.

(b) A violation of this article shall be enforceable under chapter 730, article V of this Code.

(c) A violation may lead to the cancellation of a standard flood insurance policy. ~~DMD~~ The bureau shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by the standard flood insurance policy to be suspended.

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

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

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

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

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

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

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

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

*Best available data.* Information including but not limited to available topographic mapping, survey data, historic flood records, engineering studies, channel ratings, and engineering judgment, used by ~~DMD~~ bureau of license and permit services to make flood control district determinations pursuant to

section 735-300 of this article, when detailed floodplain data are not available for a particular site.

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

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

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

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

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

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

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

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

*DPW.* The Department of Public Works of the City of Indianapolis.

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

*Existing mobile dwelling project or subdivision.* A mobile dwelling project or subdivision for which the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including, at a minimum, the installation of utilities, construction of streets and either final site grading or pouring of concrete pads) is completed before May 15, 1984.

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

*FDP.* Floodplain development permit.

*FEMA.* Federal Emergency Management Agency.

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

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

*Flood or flooding.*

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of rivers, streams, ditches or enclosed drainage systems;
  - b. The unusual and rapid accumulation or runoff of surface waters from any source;
  - c. Mudslides (i.e., mudflows) ~~which~~ that are proximately caused by flooding as defined in paragraph (1)b of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result

of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event ~~which~~ that results in flooding as defined in paragraph (1)a. of this definition.

*Flood insurance study base flood profile.* The base flood elevation profile included in the July 5, 2005 flood insurance study published by FEMA.

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

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

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

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

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

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

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

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

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

*Historic structure.* Any structure that is:

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

*IDNR.* The Indiana Department of Natural Resources.

*INRC.* The Indiana Natural Resources Commission.

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

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

*LOMA.* Letter of map amendment issued by FEMA.

*LOMR.* Letter of map revision issued by FEMA.

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

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

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

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

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

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

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

*NFIP.* National flood insurance program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Shaded zone X.* Areas between limits of the one hundred-year flood and five hundred-year flood; certain areas subject to one hundred-year flooding with average depths less than one (1) foot or with drainage areas generally less than one (1) square mile; and areas protected by levees from the base flood.

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

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

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

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

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

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

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

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

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

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

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

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

*Watercourse alteration.* Any encroachment, diversion, relocation, impoundment, draining, damming, repair, construction, reconstruction, dredging, enclosing, widening, deepening, filling or other modification of a watercourse. Watercourse alteration does not include the clearing of dead or dying

vegetation, debris or trash from the channel, nor does it include ordinary maintenance or repair of an IDNR approved watercourse alteration.

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

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

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

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

SECTION 14. Section 735-750 of the "Revised Code of the Consolidated City and County," regarding special use district zoning regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 735-750. Special Use District regulations.

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

(a) *Applicability of regulations for Special Use (SU) Districts.* After the effective date of this article:

- (1) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this article and until the proposed site and development plan and landscape plan have been filed with and approved on behalf of the Metropolitan Development Commission by the Administrator of the Division of Planning or approved by the Metropolitan Development Commission, as hereinafter provided. Such request shall be in the form of an application for an Improvement Location Permit, following all requirements for plan submission and documentation of section 730-300 et seq. of this Code, and shall contain the information specified in subsection (b)(1) of this section.
- (2) All land use within the Special Use Districts shall be limited to the use or uses existing on the effective date of this article or specified in the applicable rezoning petition or ordinance redistricting and zoning the particular land to that district.

(b) *Site and development plan consideration.* Upon the application for such permit, the Administrator of the Division of Planning on behalf of the Metropolitan Development Commission, shall consider and either approve, disapprove, or approve subject to any conditions, amendments or commitments agreed to by the applicant, the proposed site and development plan and landscape plan.

- (1) *Plan documentation and supporting information.* The site and development plan shall include layout and elevation plans for all proposed buildings and structures, and shall indicate:
  - a. Proposed Special Use District uses.
  - b. Any existing uses, buildings, and structures.
  - c. Proposed buildings and structures.
  - d. Off-street parking layout.
  - e. Vehicular entrances and exits and turnoff lanes.
  - f. Setbacks.
  - g. Landscaping, screens, walls, fences.
  - h. Signs, including location, size and design thereof.
  - i. Sewage disposal facilities.
  - j. Storm drainage facilities.
  - k. Other utilities if aboveground facilities are needed.

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

structures shall:

- a. Be so designed as to create a superior land development plan, in conformity with the Comprehensive Plan of Marion County, Indiana, including the applicable university quarter plan;
- b. Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the Special Use District and with adjacent uses;
- c. Provide sufficient and adequate access, parking and loading areas;
- d. Provide traffic control and street plan integration with existing and planned public streets and interior access roads;
- e. Provide adequately for sanitation, drainage and public utilities; and
- f. Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan of Marion County, Indiana.
- g. Provide sidewalks along eligible public streets, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the administrator; and, pedestrian accessibility to available public transit. Sidewalks shall consist of the walkway and any curb ramps or blended transitions. If required to be installed, the administrator or the commission shall be guided by the provisions of subsection 732-214(c)(4) for the installation of sidewalks.

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

(c) *Public notice.* Public notice of the filing of an application under this section and public notice of the decision by the Administrator relative to such application shall not be required.

(d) *Administrator's approval.* The Administrator shall be required to use the standards of subsections (b)(2) and (f) in the review and disposition of such structures and improvements.

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

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

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

Special Use Zoning District	Applicable District for Development Standards Review
SU-1	C-1

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

The Administrator, in reviewing Special Use District development, shall consider the standards noted above, and may approve alternatives for those requirements so long as the alternative standards are appropriate for the site and its surroundings, and the site development is compatible and consistent with the intent of the stated standards. Such modifications shall be noted on the site and development plan, stamped approved by the Administrator and become a part of the file and requirements for the Improvement Location Permit.

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

- (1) *Land use restriction.* Land use permitted in the SU-13 District shall be limited to "sanitary landfill" operations, as defined in section 735-751. Whenever the applicable standards or requirements of any other ordinance, or governmental unit or agency thereof are higher or more restrictive, the latter shall control land use permitted in the SU-13 District. "Open dumping," as defined in section 735-751, shall not be permitted in the SU-13 District. No use in the SU-13 District shall be maintained or operated in a manner constituting a hazard to health, safety or the public welfare.

- (2) *Minimum lot area.* Ten (10) acres.
- (3) *Minimum frontage.* Three hundred (300) feet.
- (4) *Minimum yards.* Minimum required depth of front, rear and side yards, surrounding the landfill operation: One hundred (100) feet. No landfill operation, or portion thereof, shall be permitted within one hundred (100) feet of any lot line.
- (5) *Fencing.* The entire landfill operation shall be enclosed with a substantial wall, fence at least five (5) feet in height, or other adequate barrier.
- (6) *Buffer strip.* A buffer planting strip, requiring trees, shrubs and woody vegetation, at least thirty (30) feet in depth, shall be provided and maintained between the lot lines and the above required fencing or other enclosure.
- (7) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code.
- (8) *Access drive.* Distance of driveway entrance or exit from any adjacent lot line shall be at least one hundred twenty-five (125) feet. Any portion of such access drive within a distance of one hundred fifty (150) feet of the public street shall be paved or treated so as to be dust free.
- (9) *Required permit, site and operational plan; bond.*
  - a. No sanitary landfill operation (or phase thereof) shall be permitted in the SU-13 District until a permit has been issued by the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement and a bond filed therefor, as required by subparagraph b. hereof.
  - b. Applications for the permit required by subparagraph a. above shall be made in writing and shall be accompanied by a corporate surety bond for the faithful performance of all applicable requirements of this article, including the operation and the completion of the sanitary landfill in accordance with the approved site and operational plan, as required by subparagraph c. hereof. (Such permit may be issued and bond filed for the total operation or for one (1) or more phases thereof, as shown on the site and operational plan.) Such bond shall run jointly and severally to the Metropolitan Development Commission of Marion County, Indiana, and any other governmental agency requiring a similar bond, and shall be in the amount of ten thousand dollars (\$10,000.00) per operation, with approved surety. Such bond shall specify the time for completion of all applicable requirements of this article and shall specify the total operational area, or phase thereof, covered by the bond.
  - c. Applications for the permit required by subparagraph a. above shall be accompanied by the following:
    1. Proposed site and operational plan, including topographic maps (at a scale of not over one hundred (100) feet to the inch) with contour intervals ~~which that~~ clearly show the character of the land and geological characteristics of the site as determined by on-site testing or from earlier reliable survey data, indicating soil conditions, water tables and subsurface characteristics. The plan shall indicate: the proposed fill area; any borrow area; access roads; on-site drives; grades for proper drainage of each lift required and a typical cross-section of a lift; special drainage devices if necessary; location and type of fencing; structures existing or to be located on the site; existing wooded areas, trees, ponds or other natural features to be preserved; existing and proposed utilities; phasing of landfill operations on the site; a plan and schedule for site restoration and completion; a plan for the ultimate land use of the site; and all other pertinent information to indicate clearly the orderly development, operation and completion of the sanitary landfill. Approval of the site and operational plan by the Administrator of the division of planning shall be required prior to the issuance of the permit.
    2. An area map.
- (10) *Operation.*
  - a. *Supervision of operation.* A landfill operation shall be under the direction of a responsible individual at all times. Access to a sanitary landfill shall be limited to those times when an attendant is on duty and only to those authorized to use the site for the disposal of refuse. Access to the site shall be controlled by a suitable barrier.
  - b. *Unloading of refuse.* Unloading of refuse shall be continuously supervised.
  - c. *Site maintenance.* Measures shall be provided to control dust and blowing paper. The

entire area shall be kept clean and orderly.

- d. *Spreading and compacting of refuse.* Refuse shall be spread so that it can be compacted in layers not exceeding a depth of two (2) feet of compacted material. Large and bulky items, when not excluded from the site, shall be disposed of in a manner approved by the health and hospital corporation.
  - e. *Daily cover.* A compacted layer of at least six (6) inches of suitable cover material shall be placed on all exposed refuse by the end of each working day.
  - f. *Final cover.* A layer of suitable cover material compacted to a minimum thickness of two (2) feet shall be placed over the entire surface of each portion of the final lift not later than one (1) week following the placement of refuse within that portion.
  - g. *Maintenance of cover.* All daily cover depths must be continually maintained and final cover depths shall be maintained for a period of two (2) years.
  - h. *Hazardous materials, including liquids and sewage.* Hazardous materials, including liquids and sewage, shall not be disposed of in a sanitary landfill unless special provisions are made for such disposal through the health department having jurisdiction. This provision in no way precludes the right of a landfill operator to exclude any materials as a part of his or her operational standards.
  - i. *Burning.* No refuse shall be burned on the premises.
  - j. *Salvage.* Salvaging (the controlled removal of reusable materials), if permitted, shall be organized so that it will not interfere with prompt sanitary disposal of refuse or create unsightliness or health hazards. Scavenging (the uncontrolled removal of materials) shall not be permitted.
  - k. *Insect and rodent control.* Conditions unfavorable for the production of insects and rodents shall be maintained by carrying out routine landfill operations promptly in a systematic manner. Supplemental insect and rodent control measures shall be instituted whenever necessary.
  - l. *Drainage of surface water.* The entire site, including the fill surface, shall be graded and provided with drainage facilities to minimize runoff onto and into the fill, to prevent erosion or washing of the fill, to drain off rainwater falling on the fill, and to prevent the collection of standing water.
  - m. *Characteristics of cover material.* Cover material shall be of such character that it can be compacted to provide a tight seal and shall be free of putrescible materials and large objects.
  - n. *Water pollution and nuisance control.* Sanitary landfill operations shall be so designed and operated that conditions of unlawful pollution will not be created and injury to ground and surface waters avoided ~~which that~~ might interfere with legitimate water uses. Water-filled areas not directly connected to natural lakes, rivers or streams may be filled with specific inert material not detrimental to legitimate water uses and ~~which that~~ will not create a nuisance or hazard to health. Special approval of the inert material to be used in this manner shall be required in writing from the health and hospital corporation. Inert material shall not include residue from refuse incinerators.
  - o. *Equipment.* Adequate numbers, types and sizes of properly maintained equipment shall be used in operating the landfill in accordance with good engineering practice and with these rules. Emergency equipment shall be available on the site or suitable arrangements made for such equipment from other sources during equipment breakdown or during peak loads.
- (11) *Completion of landfill.* Upon completion of the landfill operation, or any phase thereof as indicated on the approved site and operational plan, the land shall be graded, backfilled and finished to a surface ~~which that~~ will:
- a. Result in a level, sloping or gently rolling topography in substantial conformity or desirable relationship to the original site, and land area immediately surrounding; and
  - b. Minimize erosion due to rainfall. Such graded or backfilled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of vegetation producing land areas immediately surrounding, and to a depth of at least six (6) inches. The topsoil shall be planted with trees, shrubs, legumes or grasses, as indicated on the approved site and operational plan.

(h) *Additional development standards for the Special Use XXXXII (SU-42) District.* In addition to the regulations of section 735-701(a) and (b) and subsections (a) through (f) of this section, the following regulations shall apply to all gas conditioning and control facilities, including odorizing, mixing, metering and high pressure regulating substations permitted under such Special Use District XXXXII (SU-42), and where the word "lot" is used in the following twelve (12) paragraphs, it shall be deemed to include, but not be limited to, any area of land designated as a lot on a platted subdivision or described on a duly recorded deed or area or parcel of land or site:

- (1) The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The requirements pertaining to the storage, utilization or manufacture of all products or materials contained in the standards prescribed by the National Fire Protection Association are hereby incorporated into this article by reference and made a part hereof. Such storage, utilization or manufacture shall not produce a hazard or endanger the public health, safety and welfare.
- (2) All uses shall conform to the Atomic Energy Commission's standards for protection against radiation. The Atomic Energy Commission's standards for protection against radiation are hereby incorporated into this article by reference and made a part hereof.
- (3) All uses shall conform to the Federal Communications Commission's standards governing electromagnetic radiation. The Federal Communications Commission's standards governing electromagnetic radiation are hereby incorporated into this article by reference and made a part hereof.
- (4) No building or structure for uses permitted under such Special Use District XXXXII (SU-42) shall be constructed and no premises shall be used for such purposes on any lot ~~which~~ that does not have direct frontage on one (1) permanently surfaced public street.
- (5) All uses permitted under such Special Use District XXXXII (SU-42) shall provide hardsurfaced, off-street parking areas, including as a minimum requirement one (1) space (containing three hundred thirty (330) square feet in addition to the necessary ingress and egress lanes) for each two (2) employees, computed on the basis of the greatest number of persons employed at any one (1) period during the day or night. Such parking areas must not extend within twenty (20) feet of any lot boundary except where the lot boundary abuts an active railroad line. Such parking areas shall not be leased or rented for hire, but shall be for the sole use of the occupants and visitors of the premises.
- (6) The total of the gross floor area of all structures on the lot, excluding the gross floor area of off-street parking building space, shall not exceed one-half (1/2) the area of the lot on which the structures are located.
- (7) A front yard shall be required along every front lot line. A front yard shall be not less than the established setback for abutting land; provided, however, in the event such established setbacks of abutting land shall not be of equal depth, the front yard shall be not less than the depth of the greater, and in the event the abutting land is in an industrial or commercial district, the front yard shall be not less than sixty (60) feet in depth. Provided further that in the event the lot adjoins a dwelling district, the fence and hedge referred to in paragraph (12) hereof shall not be located closer to any street right-of-way than the established setback line of the dwelling district, such fence to be not less than fifteen (15) additional feet from the outside of the building or structure as provided in paragraph (12) hereof. Except for necessary walks, drives and parking areas not exceeding ten (10) percent of the front yard area, a front yard shall be planted in grass or other suitable ground cover.
- (8) A side yard shall be provided along each side lot line. A side yard shall be at least fifty (50) feet in depth (except where it abuts a main line railroad) plus one (1) foot for each foot of height by which the building or structure exceeds twenty (20) feet.
- (9) A rear yard shall be provided along each rear yard line. A rear yard shall be at least fifty (50) feet in depth (except where it abuts an active main line railroad) plus one (1) foot for each foot of height by which the building or structure exceeds twenty (20) feet.
- (10) All signs shall meet the requirements of Chapter 734 of this Code.
- (11) All gas conditioning and control facilities permitted under such Special Use District XXXXII (SU-42) and equipment relating thereto shall be housed in buildings or structures of masonry construction, unless otherwise prescribed by law or by the standards of the National Fire Protection Association ~~which~~ that are incorporated herein by reference and made a part hereof.
- (12) Each building or structure housing such facilities and equipment shall be enclosed by a six-foot chain link fence, with locked gate, not less than fifteen (15) feet from the outside of such

building or structure and a compact hedge not less than six (6) feet in height between such fence and the property line. Such hedge shall not be located closer than twenty-five (25) feet to any street right-of-way. In the event the lot adjoins a dwelling district, the fence and hedge shall not be located closer to any street right-of-way than the established setback line of the dwelling district.

(i) *Additional regulations applicable to Special Use XXXXIV (SU-44) District.* In addition to the regulations of section 735-701(a) and (b) and subsections (a) through (f) of this section, the following regulations shall apply to Special Use District XXXXIV (SU-44):

- (1) *Permitted uses.* The only commercial activities permitted in this district shall be: pari-mutuel wagering on horse races, providing full service dining facilities by the holder of a satellite facilities license issued under IC 4-31-5.5.
- (2) *Development standards:*
  - a. All wagering and food and beverage service shall be conducted entirely inside the facility, which shall be designed so that none of the wagering activities, including bet-taking, video monitors, and odds and contest-result displays, shall be visible to any person at any location outside the facility.
  - b. No drive-through service or outside sales shall be permitted.
  - c. No outside speakers or video monitors shall be used to advertise or display the contests, odds or other information about the wagering activities conducted within the facility.
  - d. Minimum parking of one (1) parking space per employee per largest work shift plus one (1) parking space for each seventy-five (75) square feet of gross area of the facility.
  - e. No accessory structures shall be permitted.
  - f. *Lighting of parking area:*
    1. When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.
    2. In applying exterior lighting, equipment shall be of an appropriate type and be so located, shielded and directed that the distribution of light is confined to the area to be lighted.
    3. Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.
    4. Lighting levels for outdoor parking areas shall meet the following minimum average maintained horizontal footcandles (as specified in Architectural Graphics Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York). The minimum average maintained horizontal footcandles specified in Architectural Graphics Standards for Lighting Levels for Outdoor Parking Areas are hereby incorporated into this article by reference and made a part hereof.
    5. Further, it shall be prohibited to:
      - (a) Light an area by the use of stringers or unshielded incandescent lamps in which the entire lamp envelope is designed to function as a light emitter; and
      - (b) Make use of attention attracting lighting from any apparatus of any type similar to that used by emergency vehicles.
  - g. *Signs.* All signs shall meet the requirements of Chapter 734 of this Code.
- (3) *No use permitted near specified districts.* No use of any land, structure or premises shall be permitted if any portion of the perimeter of the subject lot is located within five hundred (500) feet of the following zoning districts:
  - a. Dwelling districts;
  - b. Historic preservation districts;
  - c. Park districts;
  - d. University Quarter districts;
  - e. SU-1 District (church);
  - f. SU-2 District (school);

- g. SU-37 District (library);
- h. SU-38 District (community center).

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

SECTION 15. Section 735-802 of the "Revised Code of the Consolidated City and County," regarding wellfield protection district zoning regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 735-802. Wellfield Protection District regulations.

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

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

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

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

- (1) Any existing uses\*
- (2) Setbacks\*
- (3) Landscaping, screens, walls, fences\*
- (4) Sewage disposal facilities\*
- (5) Vicinity map (U.S.G.S. quadrangle preferred)
- (6) Brief history of site of new building or addition (usage, historical environmental concerns, abandoned wells, underground storage tanks, septic tanks)
- (7) Site map (drawn to scale) including:
  - All existing and proposed structures\*
  - Paved and nonpaved areas\*
  - Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing)
  - Floor drain locations and outlets
  - Chemical/product storage locations
  - Waste storage locations
  - Liquid transfer areas
  - Site surface water bodies (streams, rivers, ponds)\*
  - Underground storage tanks
  - Aboveground storage tanks
- (8) Proposed containment area detail drawings--area, heights, materials, specifications, if applicable
- (9) Description of proposed operations including chemicals/products used or generated,

September 21, 2009

chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures, heating source (oil/gas), liquid transfer/loading areas.

- (10) Methods and locations of receiving, handling, storing, and shipping chemicals/products and wastes.
- (11) Response measures and reporting.
- (12) Description of slopes near containment vessels and waste storage areas\*

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

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

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

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

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

(e) *Public notice.* Public notice of the filing of an application under this section and public notice of the decision by the administrator of the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement relative to such application shall not be required because this application is being treated as an improvement location permit application.

(f) *Staff approval.*

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

- e. Applicable water utilities.

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

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

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

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

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

- (2) Land in the W-1 and W-5 Districts is subject to the following requirements:
  - a. All known abandoned wells shall be identified and sealed in accordance with applicable law.
  - b. No surface impoundments, ponds, or lagoons shall be established except for:
    - 1. Stormwater detention and retention ponds; and
    - 2. Recreation or landscaping purposes.
  - c. In the W-1 District, detention and retention ponds shall meet one (1) of the following criteria:
    - 1. They are constructed in a manner that provides an effective barrier to the migration of potential groundwater contaminants into the groundwater; or
    - 2. There are existing developed site features, including the location of the proposed pond, to prevent the migration of potential groundwater contaminants into the groundwater.
  - d. The development shall be connected to municipal sanitary sewers or combined sewers. Floor drains, if present, must be connected to sanitary sewers or combined sewers or routed to a temporary holding area for removal.
  - e. All trash dumpsters shall be located on hardsurfaced areas that drain to storm sewers or combined sewers.
  - f. All areas that may be used for the storage of potential groundwater contaminants shall be constructed in a manner to prevent a release from the storage area from reaching the groundwater.
  - g. All vehicle or equipment repair and shop areas shall be located within an enclosed building that includes a floor constructed of material ~~which~~ that forms an effective barrier to prevent the migration of fluids or other materials into the groundwater.
  - h. The following restrictions apply to new, outdoor storage areas only in the W-1 District:
    - 1. No aboveground storage tank of liquid (for underground storage tanks see requirement m.) of greater than one thousand (1,000) gallons is allowed.

2. No storage of water soluble solids of more than six thousand (6,000) pounds per container is allowed in any one (1) containment area.
  3. Restrictions of 1. and 2. above may be waived by the technically qualified person if the tanks or other storage container is at least two hundred (200) feet from a public water supply system (PWSS) well, is above ground, and is located where at least twenty-five (25) feet or a suitable thickness of naturally occurring or compacted low permeability fine grained materials overlie the aquifer used by the PWSS.
- i. Except for fuel stored in accordance with subsection (h)(2)n. at a fuel dispensing facility, all tanks holding more than forty (40) gallons of liquids for more than twenty-four (24) hours must be in a location or containment area capable of preventing any release from the tank from reaching the groundwater table. A containment area capable of containing one hundred ten (110) percent of the largest such tank in that location would satisfy this requirement.
1. The containment area shall be constructed to meet at least one (1) of the following requirements:
    - (a) A secondary containment structure designed to prevent and control the escape or movement of potential groundwater contaminants into groundwater for a minimum period of seventy-two (72) hours before removal; or
    - (b) A storage tank designed and built with an outer shell and a space between the tank wall and the outer shell that allows and includes interstitial monitoring.
  2. Where practical, the secondary containment structure shall be designed to allow drainage or pumping into a holding area designed to contain the discharge until it can be properly removed.
  3. The secondary containment structure shall be properly maintained and shall be free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the structure.
  4. Secondary containment systems shall be designed so that the intrusion of precipitation is inhibited or that stormwater is removed to maintain system capacity.
- j. While being stored, water soluble solids must be kept dry at all times.
- k. Sludges ~~which that~~ could release liquids or water soluble solids must be contained so that neither could enter the groundwater.
- l. The transfer area for the bulk delivery of liquids shall be required to accommodate and contain a release that occurs during loading and unloading of a tank as follows:
1. The liquid transfer area shall be constructed in a manner to prevent a release in the transfer area from reaching the groundwater.
  2. The portion of the liquid transfer area intended to contain releases shall be maintained so that it is free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the area.
- m. In the W-1 District, existing underground storage tanks (USTs) may be replaced or upgraded only in accordance with requirement n. Replacements and upgrades to existing USTs at fuel dispensing facilities are not subject to the volume limitations. No other new USTs are permitted in the W-1 District.
- n. In the W-1, the following requirements apply only to fuel dispensing facilities, or replacement or upgraded USTs as referenced in requirement m. For all other tanks, see requirement i.
1. Approved USTs shall be double walled.
  2. Approved USTs shall include the following three (3) methods of release detection:
    - (a) Inventory control as defined in 40 CFR 280.43(a);
    - (b) Monthly 0.2 in tank leak test as defined in 40 CFR 280.43(d); and
    - (c) Interstitial monitoring of a double walled approved UST as defined by 40 CFR 280.43(g).
  3. Connected piping must include the following three (3) methods of release detection:

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

SECTION 15. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance, or any regulation, does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 16. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

September 21, 2009

SECTION 17. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14, or January 1, 2010, whichever last occurs.

Proposal No. 339, 2009 was retitled GENERAL ORDINANCE NO. 97, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 97, 2009

METROPOLITAN DEVELOPMENT COMMISSION  
DOCKET NO. 2009-AO-02

A GENERAL ORDINANCE to amend portions of the "Revised Code of the Consolidated City and County regarding the zoning ordinances updating the law enforcement agency citations, correcting grammatical and spelling errors, and fixing a time when the same shall take effect.

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

WHEREAS, General Ordinance No. 2, 2008 established the Indianapolis Metropolitan Police Department as the police division of the Department of Public Safety; now, therefore:

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

SECTION 1. Section 730-501 of the "Revised Code of the Consolidated City and County," regarding definitions used in the enforcement and remedies ordinance, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 730-501. Definitions.

~~For purposes of As used in~~ this article, the following ~~definitions words and phrases shall be applied:~~ have the meanings ascribed to them in this section.

~~(1)~~ (4) *Administrator* means the Administrator of the Division of compliance of the Department of Metropolitan Development of the Consolidated City of Indianapolis.

~~(2)~~ (2) *Designated enforcement entity* means the Metropolitan Development Commission of Marion County, Indiana.

~~(3)~~ (3) *Inoperable motor vehicle* means:

~~a.~~(1) A motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle from which has been removed engine, transmission or differential parts or that is otherwise partially dismantled or mechanically inoperable; or

~~b.~~(2) Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, which cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

~~(4)~~ (4) *Inspectors* means employees of the division of compliance authorized by the Administrator to enter, examine and survey all lands within Marion County to accomplish the enforcement of all zoning ordinances and land use regulations of Marion County.

~~(5)~~ (5) *Land use petition* means a rezoning petition, variance petition, approval petition, special exception petition, or any other petition permitted by the rules of procedure adopted by the Metropolitan Development Commission of Marion County or the Metropolitan Board of Zoning Appeals.

~~(6)~~ (6) *Law enforcement officer* means any sworn member of the Marion County Sheriff's Department, Indianapolis Metropolitan ~~Law Enforcement Agency~~ Police Department, Beech Grove Police Department, Lawrence Police Department, Southport Police Department, Speedway Police

Department, or Cumberland Police Department, acting within their legal authority and jurisdiction.

(7) *Site improvement* means the erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing or remodeling of any new or existing structure or any part thereof; any activity for which an improvement location permit is required.

(8) *Zoning districts* mean the districts depicted by the comprehensive zoning maps of Marion County, Indiana.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance, or any regulation, does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14, or October 1, 2009, whichever last occurs.

Proposal No. 340, 2009 was retitled GENERAL ORDINANCE NO. 98, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 98, 2009

METROPOLITAN DEVELOPMENT COMMISSION  
DOCKET NO. 2009-AO- 03

A GENERAL ORDINANCE to amend portions of the "Revised Code of the Consolidated City and County regarding the zoning ordinances updating the reference to the assessor, correcting grammatical and spelling errors, and fixing a time when the same shall take effect.

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

WHEREAS, the duties of the township assessors regulating the development of land have been transferred to the county assessor as a result of HEA 1001, 2008; now, therefore:

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

SECTION 1. Section 731-320 (b) of the "Revised Code of the Consolidated City and County," regarding subdivision application procedures and approval process, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 731-320. Subdivision application procedures and approval process; general procedure.

(a) *Classification of subdivisions.* Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the provisions and procedures of this article. Subdivisions are classified into two (2) types:

- (1) *Minor subdivision*, defined as any subdivision which:
  - a. Contains no more than three (3) lots;
  - b. Has all lots fronting on an existing street;

*Journal of the City-County Council*

- c. Does not involve the construction of a new street or extension of an existing street;
- d. Does not necessitate the extension of municipal facilities or the creation of any public improvements; and
- e. Does not adversely affect the remainder of the parcel or adjoining property.

Further, to be classified as a minor subdivision, the land shall be platted into developable lots, as required by the applicable zoning ordinance, and the parent tract of land from which any part of the lots are platted shall not have been a part of three (3) or more previous minor subdivision platting requests.

(2) *Major subdivision*, defined as all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the local government facilities or the creation of any public improvements.

(b) *Official submission.*

- (1) *Application.* The applicant for primary plat approval shall file, on forms provided by the Commission, a petition for plat approval, to include the following items:
  - a. Primary plat.
  - b. Topographic map (not required for minor subdivisions).
  - c. Area map.
  - d. Legal description of property to be platted.
  - e. Applicable filing fee.
  - f. Other information as noted in the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana.

Within thirty (30) days after receipt of an application for subdivision approval, the staff shall set the date for a hearing before the Committee and provide for notice in accordance with section (d) of this section (per IC 36-7-4-706) and the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana.

- (2) *Reduced requirements for minor subdivisions.* In platting minor subdivisions, the following approvals and documents shall not be required:
  - a. Topographic map submittal.
  - b. Overall primary plat drainage approval.
  - c. Bonding.
  - d. Construction plan approval at the time of secondary plat recording. However, all applicable specifications and standards of the City of Indianapolis/Marion County shall be met and documented at the time of applying for required permits.
- (3) *Committee action.* In accordance with IC 36-7-4-707, the Committee shall by vote at a public hearing approve, conditionally approve, or deny the petition for primary plat approval. If the Committee determines that the primary plat is in compliance with the standards of these regulations (or will be in compliance after meeting specified conditions), it shall make written findings to that effect and shall grant primary approval of the plat. If the Committee determines that the primary plat is not in compliance with the standards of these regulations (even assuming that specified conditions will be met), it shall make written findings to that effect and shall deny primary approval of the plat. The findings shall express the reasons for the decision. The decision shall be signed by the Administrator. The applicant shall be provided with a copy of the findings and decision.
- (4) *Appeal of Committee decision.* In accordance with IC 36-7-4-708, an applicant or any other interested party may appeal the primary plat approval or denial, or the imposition of a condition on primary approval by the Plat Committee to the full Metropolitan Development Commission. Notice of the appeal shall be filed with the Metropolitan Development Commission within ten (10) days after the action of the Plat Committee. Upon the filing of an appeal, a public hearing shall be held by the Metropolitan Development Commission on the petition, in the same manner, and following procedures as set forth in the Rules of Procedure of the Plat Committee of the Metropolitan

Development Commission of Marion County, Indiana. After a public hearing on the appeal and vote by the Metropolitan Development Commission, the primary approval or denial of a plat by the Commission or the imposition of a condition on primary approval is a final decision of the Metropolitan Development Commission that may be reviewed as provided by IC 36-7-4-1016.

- (5) *Effective period of primary plat approval.* The approval of a primary plat shall be effective for a period of two (2) years from the date that the primary plat is approved by the Committee. The applicant shall have submitted a secondary plat for approval prior to the end of such time. Any plat that is not recorded within such two-year period shall, at the expiration of such two-year period, become invalid and shall not be entitled to recording without reapproval by the Committee, in accordance with the same standards, requirements and procedures specified by these regulations for original plat approval.
- (6) *Secondary approval.* Secondary approval may be granted after expiration of the time provided for appeal under subsection (b)(4) above. No notice or hearing is required, and the provisions of these regulations concerning notice and hearing do not apply to secondary approvals. The Administrator, as authorized by IC 36-7-4-710, has the authority to grant secondary approval on behalf of the Commission. The Administrator shall not grant secondary approval unless:
- a. All conditions of primary plat approval are met; and
  - b. All zoning requirements are met; and
  - c. The secondary plat is in substantial compliance with the approved primary plat; and
  - d. The plat has been stamped by the ~~applicable township~~ county assessor.

A plat of a subdivision may not be filed with the Auditor, and the recorder may not record it, unless it has been granted secondary approval and has been signed and certified with the Commission seal by the Administrator. The filing and recording of the plat is without legal effect unless secondary approval has been granted by the Administrator.

In granting secondary approval, the Administrator shall affix to the plat the seal of the Commission, the approval of its members, and attach the certificate that public notice of the hearing was published.

Secondary approval may be granted to a plat for a subdivision in which the improvements and installations have not been completed if the applicant provides satisfactory assurance that the installations and improvements will be installed or extended in compliance with section 731-321 of these regulations.

- (7) *Recording of plats.*
- a. A plat shall not be recorded unless the plat bears all the following:
    1. The seal of the Metropolitan Development Commission of Marion County, Indiana.
    2. Stamp of the ~~applicable township~~ county assessor.
    3. Any and all owners' consent signatures, notarized.
    4. Dedication statement for streets and public utility easements, if required.
    5. Addresses and street names as approved by the applicable city agency having jurisdiction.
    6. Any restrictive covenants (if proposed).
    7. Site distance covenant (See appendix).
    8. Enforcement covenant (See appendix).
    9. Storm drainage covenant (See appendix).
    10. Sanitary sewer covenant (See appendix).
    11. Stamp by the registered land surveyor.
    12. Stamp of the county auditor.
  - b. The recorded plat shall be ratified by the Committee.

- c. Every secondary plat approved by the Committee after the effective date of this article shall be recorded within two (2) years after the date of that conditional approval of the primary plat.
- d. Any plat that is not recorded within such two-year period shall, at the expiration of such two-year period, become invalid and shall not be entitled to recording without reapproval by the Committee, in accordance with the same standards, requirements and procedures specified by these regulations for original plat approval.
- e. Once the plat has been recorded, copies of the recorded plat and covenant document (the instrument number clearly appearing on each) shall be delivered to the Administrator prior to the issuance of improvement location permits. The Administrator shall determine the applicable number of copies of each document required.

(c) *Filing fees.* In order to compensate for the expense of publishing notice and for the review and verification of applications, filing fees shall be paid by the applicant at the time of filing a petition as set by the Commission in its Rules of Procedure for the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, in accordance with IC 36-7-4-704.

(d) *Notice.*

(1) *Notice requirements - plats or vacations of plats.*

- a. *Notice by publication.* When the Committee is required by law to publish a notice of a public hearing on a petition, such notice shall be published by the Committee at least ten (10) days prior to the date set for the hearing as required by IC 5-3-1;
- b. *Additional notice.* Additional notice shall be given by petitioner to owners of adjoining land, neighborhood organizations and affected city-county councilors; and
- c. *Notice on subject property.* Notice shall be given in accordance with the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, in accordance with (as applicable):  
IC 36-7-4-706 (platting);  
IC 36-7-4-712 (vacation of plats or parts of plats);  
IC 36-7-4-712 (vacation of public ways, easements or public places or parts thereof).

The requirements of subsections (d)(1)b. and c. of this section shall not be applicable to petitions initiated by the Commission. The Commission shall determine the requirements, if any, for notice on such petitions.

- d. *Agencies to be notified regarding plats.* The petitioner shall send a copy of the primary plat and a transmittal letter to the listing of public and private agencies and utilities, adopted by the Plat Committee as "agencies to be notified regarding plats" prior to filing for plat approval. The transmittal letter shall indicate that comments on the plat should be sent to both petitioner and the Department of Metropolitan Development. A copy of the transmittal letter to each of the agencies listed, or a notarized affidavit certifying that such transmittal was sent to the agencies, shall be submitted with the filing of a Plat Petition.

(2) *Affidavit of notice.* An affidavit of notice shall be given in accordance with the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, in accordance with IC 36-7-3-11, or IC 36-7-4-706 as applicable.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance, or any regulation, does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

September 21, 2009

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14, or October 1, 2009, whichever last occurs.

PROPOSAL NO. 341, 2009. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 341, 2009 on September 17, 2009. The proposal, sponsored by Councillors Vaughn and Sanders, amends the Code to clarify the sources and use of the Marion Superior Court equipment fund. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Vaughn moved, seconded by Councillor Hunter, for adoption. Proposal No. 341, 2009 was adopted on the following roll call vote; viz:

26 YEAS: *Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*

0 NAYS:

1 NOT VOTING: *Mahern (D)*

2 ABSENT: *Minton-McNeill, Smith*

Proposal No. 341, 2009 was retitled GENERAL ORDINANCE NO. 99, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 99, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to clarify the sources and use of the Marion Superior Court equipment fund.

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

SECTION 1. Section 135-243 of the "Revised Code of the Consolidated City and County," regarding the Marion Superior Court equipment fund, hereby is amended by deletion of the language that is stricken-through and addition of the language that is underscored, to read as follows:

**Sec. 135-243. Marion Superior Court Equipment Fund.**

(a) There is hereby created a special fund to be designated as the "Marion Superior Court equipment fund," in the office of the court services agency. This fund shall be a continuing, nonreverting fund, with all balances remaining therein at the end of each year. Such balances shall not lapse into the county general fund or ever be directly or indirectly diverted in any manner to uses other than those stated in this section.

(b) All fees and moneys generated by the use of teleconference programs, electronic case filing systems, or other court computerized systems, ~~or revenue derived from grants, specified for teleconference programs for the Marion Superior Court,~~ shall be deposited in the Marion Superior Court equipment fund.

(c) The fund shall be administered by the Marion Superior Court, and all funds deposited therein shall be appropriated and used solely for computer application programming, equipment acquisition, replacement and maintenance.

(d) Amounts shall be paid from this fund only pursuant to appropriations authorized by the city-county council in the normal budgeting processes.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings

begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

Councillor Hunter reported that the Public Works Committee heard Proposal Nos. 342-343, 2009 on September 10, 2009. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 342, 2009. The proposal, sponsored by Councillor Nytes, authorizes parking restrictions on Michigan Street between College Avenue and Leon Street (District 9). PROPOSAL NO. 343, 2009. The proposal, sponsored by Councillor Hunter, authorizes a multi-way stop at the intersection of Burgess Avenue and Spencer Avenue (District 21). By 9-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Hunter moved, seconded by Councillor Day, for adoption. Proposal Nos 342 and 343, 2009 were adopted on the following roll call vote; viz:

*26 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*  
*0 NAYS:*  
*1 NOT VOTING: Mahern (D)*  
*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 342, 2009 was retitled GENERAL ORDINANCE NO. 100, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 100, 2009

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-125, Stopping, standing and parking prohibited at designated locations on certain days and hours.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-125, Stopping, standing and parking prohibited at designated locations on certain days and hours, be and the same is hereby amended by the addition of the following, to wit:

ON ANY DAY EXCEPT SATURDAYS,  
SUNDAYS AND HOLIDAYS

*From 6:00 a.m. to 9:00 a.m.*

*Michigan Street, on the south side, from College Avenue to Leon Street;*

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

Proposal No. 343, 2009 was retitled GENERAL ORDINANCE NO. 101, 2009, and reads as follows:

September 21, 2009

CITY-COUNTY GENERAL ORDINANCE NO. 101, 2009

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-416, Schedule of intersection controls.

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

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
26	Burgess Ave Spencer Ave	Burgess Ave	Stop

SECTION 2. The "Revised Code of the Consolidated City and County," specifically, Sec. 441-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
26	Burgess Ave Spencer Ave	None	All-Way Stop

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

PROPOSAL NO. 345, 2009. Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 345, 2009 on September 17, 2009. The proposal, sponsored by Councillor Vaughn, amends the Code to correct all spellings of the word councillor and to make other technical corrections. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Lutz moved, seconded by Councillor Vaughn, for adoption. Proposal No. 345, 2009 was adopted on the following roll call vote; viz:

- 26 YEAS: *Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*
- 0 NAYS:
- 1 NOT VOTING: *Mahern (D)*
- 2 ABSENT: *Minton-McNeill, Smith*

Proposal No. 345, 2009 was retitled GENERAL ORDINANCE NO. 102, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 102, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to correct all spellings of the word *councillor*, and to make other technical corrections.

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

SECTION 1. Section 151-67 of the "Revised Code of the Consolidated City and County," regarding the approval of charter schools, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 151-67. Approval of charter schools.**

(a) Whenever pursuant to IC 20-5.5 the mayor has recommended the issuance of a charter for a charter school in the consolidated city, such recommendation shall be referred to the committee on rules and public policy, and any ~~councilor~~ councillor may introduce a proposal for a council resolution to approve the issuance of such charter.

(b) If the recommendation of the mayor has been approved by the committee on rules and public policy prior to the introduction of the proposal, such proposal shall be placed upon the agenda under Special Orders--Priority Business, and eligible for passage upon the date of introduction. Unless the council adopts a motion permitted by subsection (c), the president shall immediately call for a vote on the proposal.

(c) The only motions that shall be in order under subsection (b) are a motion to refer the proposal to the committee on rules and public policy or a motion to postpone the proposal to the next regular meeting of the council.

(d) If the proposal is referred to the committee on rules and public policy, such committee shall report at the next meeting of the council. Regardless, of whether or not such committee meets and reports, the proposal shall be placed on the agenda of the next meeting under Special Orders--Unfinished Business for action at that meeting.

SECTION 2. Sections 151-1101, 151-1102, and 151-1103 of the "Revised Code of the Consolidated City and County," regarding the establishment and review of standards of ethical conduct for councilors and the investigation of alleged violations of the same, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 151-1101. Establishment and review of standards of ethical conduct for ~~councilors~~ councillors.**

Prior to March 1 of each year, the ethics committee shall review the standards of ethical conduct for ~~councilors~~ councillors and devise and propose any amendments the committee deems necessary or appropriate.

**Sec. 151-1102. Review of alleged violations.**

In addition to the duties provided in section 151-1101, the ethics committee may do any of the following:

- (1) Receive and hear any complaint ~~which~~ that alleges any violation of the standards of ethical conduct for ~~councilors~~ councillors, regardless of when the misconduct or violation is alleged to have occurred;
- (2) Obtain information with respect to any complaint filed pursuant to this section and, to that end, compel the attendance and testimony of witnesses and the production of documents;
- (3) Recommend to the council that, because of his or her violation of the standards of ethical conduct for ~~councilors~~ councillors, a ~~councilor~~ councillor be subject to censure or such other punishment as the council may deem proper, or the law may provide, as will best maintain, in the minds of the public, a good opinion of the conduct and character of ~~councilors~~ councillors; and
- (4) Act as an advisor to ~~councilors~~ councillors on ethics questions.

**Sec. 151-1103. Conduct of investigations.**

(a) The ethics committee shall conduct investigations under this division as provided in this section.

(b) *Review of complaint.* When a complaint is filed with the committee, a copy shall promptly be sent to the ~~councilors~~ councillors alleged to have committed the violation, referred to as the respondent. After receiving a copy of the complaint, the respondent may submit a written response to the committee. If the committee determines the complaint does not allege facts sufficient to constitute a violation, the complaint shall be dismissed and the complainant and respondent notified. If the committee determines the complaint alleges facts sufficient to constitute a violation, it shall promptly investigate the alleged violation.

(c) *Preliminary investigation.* The committee may meet in executive session to conduct a preliminary investigation and to determine whether probable cause exists to support an alleged violation. If, after such preliminary investigation, the committee finds that probable cause does not exist to support an alleged violation, the allegation shall be dismissed. All committee investigations and records relating to the preliminary investigation shall be confidential, as authorized by IC 5-14-3-4(b).

(d) *Hearing.* If the committee finds that probable cause exists to support an alleged violation, it shall convene a hearing on the matter within thirty (30) days after making such determination. If a hearing is to be held, the respondent shall be allowed to examine and make copies of all evidence in the committee's possession relating to the allegations. At the hearing, the respondent shall be afforded appropriate due process protection, including the rights to be represented by counsel, to discovery, to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses.

(e) *Findings.* If the committee, based on a preponderance of the evidence, finds the respondent has violated the standards of ethical conduct for ~~councilors~~ councillors, it shall state its findings in writing in a report to the president of the council. Such report shall be supported and signed by a majority of the committee members. If the committee finds the respondent has not violated the standards of ethical conduct for ~~councilors~~ councillors, it shall dismiss the charges.

SECTION 3. Section 285-801 of the "Revised Code of the Consolidated City and County," regarding the establishment of the high performance government team, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 285-801. High performance government team established.**

- (a) The high performance government team is established.
- (b) The purpose of the high performance government teams is to review the operations of all taxing units in the City of Indianapolis and Marion County, to assist those units in finding ways to operate more efficiently and effectively, and to make recommendations to the mayor, city-county council, relevant elected officials and the taxing units regarding how to implement the team's findings.
- (c) The team consists of the following thirteen (13) members:
  - (1) Two (2) co-chairpersons, with one (1) appointed by the mayor and one (1) appointed by the city-county council;
  - (2) Eleven (11) members appointed by the co-chairpersons in collaboration with the mayor, city-county council and Greater Indianapolis Chamber of Commerce and no more than six (6) of whom shall be of the same political party;
  - (3) The city controller or his/her designee as a non-voting, ex-officio member; and
  - (4) Two (2) city-county ~~councilors~~ councillors of different political parties appointed by the council as non-voting, ex-officio members.
- (d) All members shall serve at the pleasure of the appointing authority, in person and not by proxy, and without compensation.
- (e) Members must be residents of Marion County, Indiana.
- (f) Voting members shall not be elected officials or employees of elected officials.
- (g) Voting members shall have significant experience in the corporate sector, preferably with significant experience in total quality management, which is a management strategy aimed at embedding awareness of quality in all organizational processes. Total quality provides an umbrella under which everyone in the organization can strive and create customer satisfaction at continually lower real costs.
- (h) The initial appointment of each team member shall be for a term ending on December 31, 2009, or until his or her successor is appointed and qualified. At the end of 2009, the city-county council shall assess the effectiveness of this effort. If appropriate, the city-county council will re-authorize continuation of the team. If the team is re-authorized, all subsequent appointments shall be for a term of two (2) calendar years and until his or her successor is appointed and qualified. If a vacancy occurs, the appointment of a successor shall be for the unexpired portion of the term. Each member may be appointed to successive terms.
- (i) A quorum of the team for official action shall be seven (7) voting members.
- (j) The team shall meet as often as necessary, at such place and time as may be set by the co-chairpersons. All official action of the team shall be executed by the co-chairpersons upon being authorized by a motion passed by a simple majority of voting members present.

(k) The team shall adopt rules for the conduct and procedures of the team's meetings that are consistent with the Indiana Open Door Law and the Access to Public Records Act.

(l) The team is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(m) The team shall hold regular meetings at least once a month as necessary to transact the business of the team.

SECTION 4. Section 293-101 of the "Revised Code of the Consolidated City and County" (as amended by G. O. No. 45, 2009) regarding the ethics code of the city and county, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 293-101. Name and purpose.**

(a) This chapter shall be referred to as the ethics code of the consolidated city and county.

(b) The purpose of this chapter is to set clear and high ethical standards for the official conduct of officials, appointees, and employees of city and county government and persons who have a business relationship with city or county government so that the public will have confidence that the conduct of city and county business is always conducive to the public good.

(c) Public confidence in the integrity of government is essential to the exercise of good government. Accordingly, those persons under the jurisdiction of the ethics commission should be committed to the following goals:

- (1) Duties should be carried out impartially;
- (2) Decisions and policy should not be made outside of proper channels of city and county government;
- (3) Public office should not be used for private gain; and
- (4) Actions, transactions, or involvements ~~should not be performed or engaged in which~~ that have the potential to become a conflict of interest should not be performed or engaged in.

(d) This chapter is not meant unduly to restrict or limit the behavior of the officials, appointees, or employees during the time when they are not on duty. Each ~~councilor~~ councillor, official, appointee, or employee retains lawful rights and privileges as a private citizen to interests of a personal or private financial nature. These rights and privileges will be honored to the extent that they are compatible with an individual's elected office, appointed position, or employment.

SECTION 5. Section 293-102 of the "Revised Code of the Consolidated City and County" (as amended by G. O. No. 31, 2009, effective on January 1, 2010, and further as amended by G. O. No. 45, 2009) regarding definitions of terms in Chapter 293, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 293-102. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Advisory body* means an authority, board, commission, committee, task force, or other body designated by any name of the city or county government that is authorized to make only nonbinding recommendations.

*Agency* means an authority, board, branch, bureau, commission, committee, council other than the city-county council, department, division, office, service, or other instrumentality of city or county government that is established by statute, ordinance, executive order, or other law. The term agency includes the office of mayor and the county offices of the assessor, auditor, clerk, coroner, recorder, sheriff, surveyor, and treasurer. The term does not include any advisory body. The term does not include the city-county council or state offices with county jurisdiction, which are the office of county prosecutor and the judges of the circuit court or superior courts; however, all individuals excluded are invited to comply with this ethics code.

*Appointee* means a person, other than an official or employee, who is appointed to an agency, a municipal corporation, or a governmental entity in the county whose budget is subject to the review of

the city-county council.

*Assist or assistance* means to help, aid, advise, or furnish information to a person, and includes an offer to assist.

*Business relationship* means:

- (1) Dealings with an agency by a person who has:
  - a. A financial interest in a contract with, or purchase by, an agency; or
  - b. A license or permit requiring the exercise of judgment or discretion by the agency;or
- (2) *Lobbying activity* by a *lobbyist*, as those terms are defined in Section 909-101 of the code.

*Candidate for elected office* means a candidate for the office of mayor and the county offices of the assessor, auditor, clerk, coroner, recorder, sheriff, surveyor, or treasurer.

*Compensation* means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

*Councilor Councillor* means a member of the city-county council.

*Employee* means an individual, other than a councillor, an official or appointee, who is employed by an agency (other than the city-county council) on a full-time, a part-time, a temporary, an intermittent, or an hourly basis, or via an employment contract.

*Entertainment* means the free admission or token of admission to a sporting contest, concert, theatrical production, convocation, parade, convention, festival, or other similar show or presentation that is intended for the divertissement of members of the public upon paid admission.

*Ethics commission* refers to the city-county ethics commission created under section 293-331.

*Fair market value* means the price that would be paid by a willing buyer to a willing seller in a good faith transaction in which objectively adequate consideration is provided.

*Financial interest* means an interest ~~which that~~ will result in an ascertainable increase or decrease in the income or net worth of the official, appointee, or employee or a member of that individual's immediate family, but does not include an interest:

- (1) Of a ~~councilor~~ councillor, official, appointee, or employee in the common stock of a corporation unless the combined holdings in the corporation of the ~~councilor~~ councillor, official, appointee, or employee, that individual's spouse, and that individual's dependent are more than one (1) percent of the outstanding shares of the common stock of the corporation; or
- (2) That is held as an asset in a blind trust.

*Immediate family* means an individual's spouse or dependent.

*Information of a confidential nature* means information obtained by reason of the position or office held, and ~~which that~~:

- (1) A public agency is prohibited from disclosing under IC 5-14-3-4(a);
- (2) A public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or
- (3) Is not in a public record, but if it were, would be confidential.

*Official* means the mayor and the individuals who hold the county offices of the assessor, auditor, clerk, coroner, recorder, sheriff, surveyor, and treasurer.

*Person* means an individual, proprietorship, partnership, unincorporated association, trust, business

trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental entity.

*Political activity* means taking action to support an individual in his or her campaign for elected office, or soliciting contributions for a political party or another candidate for any elected public office.

*Property* means money, real property, personal property, goods, supplies, services, deeds, trade secrets, contract rights, or other interests in or claims to wealth.

*Relative* means any person related as grandfather, grandmother, father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, uncle, aunt, husband, wife, son, daughter, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandchild, stepgrandchild, niece, or nephew.

*Represent* means to attend an agency proceeding, write a letter, or communicate with an official, appointee, or employee of an agency on behalf of a person.

*Sanctions* means any of the following actions:

- (1) Canceling a contract, or barring a person from entering into a contract with an agency for a certain period of time;
- (2) Making restitution or disgorgement;
- (3) Removal from office, appointment, or employment;
- (4) Barring an individual from future employment or appointment with the city or county for a certain period of time;
- (5) Revocation or suspension of a license, registration, or permit issued by an agency, including but not limited to a lobbyist registration under Chapter 909 of the code, or barring a person from obtaining such a license, registration, or permit for a certain period of time; or
- (6) Disciplinary action.

*Travel expenses* means the costs of transportation, lodging, and meals. The term includes actual travel expenses or an amount approximating those expenses that would be allowed by travel policies and procedures authorized by the city controller.

SECTION 6. Section 293-205 of the "Revised Code of the Consolidated City and County," regarding restrictions on city and county appointees, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 293-205. Appointment restrictions.**

(a) No appointee shall fail to attend more than one-third of the meetings of the agency to which the appointee is appointed in a twelve-month period.

(b) No ~~councilor~~ councillor, official, or employee may serve as an appointed member of any agency unless the statute, ordinance, or executive order establishing the agency expressly contemplates membership by that type of member.

SECTION 7. Section 293-209 of the "Revised Code of the Consolidated City and County," regarding restrictions on excess compensation for councilors, officials, appointees and employees, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 293-209. Additional or excess compensation.**

A ~~councilor~~ councillor, official, appointee, or employee may not solicit or receive compensation:

- (1) For the sale or lease of any property or service to a person with a business relationship with the ~~councilor~~ councillor or an official's, appointee's, or employee's agency that substantially exceeds the amount that ~~which~~ the ~~councilor~~ councillor, official, appointee, or employee would charge in the ordinary course of business; or
- (2) For the performance of official duties other than as provided by law.

SECTION 8. Section 293-212 of the "Revised Code of the Consolidated City and County," regarding restrictions on the use or disclosure of confidential information, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 293-212. Benefiting from or divulging confidential information.**

(a) A ~~councilor~~ councillor, official, appointee, employee, former ~~councilor~~ councillor, former official, former appointee, or former employee shall not materially benefit from information of a confidential nature except as permitted by law.

(b) A ~~councilor~~ councillor, official, appointee, or employee shall not divulge information of a confidential nature except as permitted by law.

SECTION 9. Section 293-303 of the "Revised Code of the Consolidated City and County," regarding ethics advisory opinions, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 293-303. Advisory opinions.**

(a) An advisory opinion from the office of corporation counsel may be requested by:

- (1) The mayor, a ~~councilor~~ councillor, or an ethics commission member;
- (2) Any official, appointee, employee, or former employee; or
- (3) A person with a business relationship with an agency.

(b) Requests for an advisory opinion shall be in writing, signed by the person making the request, and designated an inquiry. The inquiry shall state the official status of the person making the request and all material facts necessary for the office of corporation counsel to understand the circumstances and render a complete advisory opinion. The inquiry, if requested by someone under subsection (a)(2) or (a)(3), must relate specifically to that person.

(c) All advisory opinions shall be issued in writing, designated as an Official Advisory Opinion, signed by the corporation counsel, and shall be conditioned upon the following:

- (1) The facts and circumstances actually exist; and
- (2) All of the relevant facts and circumstances related to the advisory opinion have been disclosed.

(d) Any person directly affected by the advisory opinion may seek written clarification of the advisory opinion from the office of corporation counsel. Any such request for clarification shall be made in writing to the office of corporation counsel.

(e) Any person directly affected by the advisory opinion may appeal to the corporation counsel or the ethics commission for reconsideration or clarification of the advisory opinion. Any such appeal shall be made in writing.

(f) If a person who has requested an advisory opinion has been advised that certain action or inaction will lead to a violation of this chapter and has failed to comply after having been given a reasonable opportunity to do so, the corporation counsel shall refer the matter to the ethics commission so that it may review the matter to determine compliance with the advisory opinion and, in executive session, vote to initiate an investigation.

(g) A person who relies on an advisory opinion is not subject to sanctions with respect to that subject matter; however, work product of the office of corporation counsel that is not an advisory opinion does not shield the person from sanctions.

(h) The office of corporation counsel, on at least a quarterly basis, shall publish for distribution on its website the accumulated advisory opinions with the names, and other information deemed necessary to protect the identities of persons, removed in a format explaining the facts, the question, and the opinion.

SECTION 10. Section 293-332 of the "Revised Code of the Consolidated City and County," regarding the city-county ethics commission, hereby is amended by the deletion of the language that is stricken-through,

and by the addition of the language that is underscored, to read as follows:

**Sec. 293-332. Appointment, terms, and qualifications of members.**

(a) The ethics commission shall be composed of five (5) members to be appointed by the mayor, subject to the approval of the city-county council. No more than three (3) members shall be affiliated with the same political party.

(b) At no time may a member be:

- (1) A ~~councilor~~ councillor, official, appointee, or employee;
- (2) A declared candidate for elected office;
- (3) An officer or employee of any political party; however, this shall not include an individual who is elected or appointed to serve as a delegate to a party convention;
- (4) A person with a business relationship with an agency or a person who intends to have a business relationship with an agency; or
- (5) A resident of a county other than Marion.

(c) Each appointment shall be made for a term of three (3) years, ending on December 31; however, each member shall serve until his or her successor is duly appointed and qualified. A member appointed to fill a vacancy shall serve for the duration of the unexpired term.

(d) A member may be removed only upon the two-thirds majority vote of the city-county council.

(e) Members of the ethics commission shall serve without compensation or reimbursement of expenses.

SECTION 11. Section 293-334 of the "Revised Code of the Consolidated City and County," regarding the jurisdiction of the city-county ethics commission, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 293-334. Jurisdiction.**

(a) The ethics commission has jurisdiction over officials, appointees, employees, persons with a business relationship with any agency, and individuals filing complaints before the ethics commission with respect to suspected violations of Article II and Article III, Division 2, of this chapter.

(b) The ethics commission does not have jurisdiction over the following:

- (1) Complaints filed more than two (2) years after the date of the suspected violation;
- (2) Suspected violations of agency policies promulgated under section 293-301; or
- (3) ~~Councilors~~ Councillors or former ~~councilors~~ councillors, except to the extent an alleged violation is within a ~~councilor's~~ councillor's or former ~~councilor's~~ councillor's scope of employment with the city or county.

(c) Any complaint filed alleging a violation by a ~~councilor~~ councillor shall be referred by the secretary to the ethics committee established by section 151-25.

(d) A complaint or investigation before the ethics commission may be stayed if the matter is subject to pending litigation or notice by law enforcement that a criminal investigation is underway.

SECTION 12. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 13. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid

September 21, 2009

provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 14. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

**SPECIAL SERVICE DISTRICT COUNCILS  
POLICE SPECIAL SERVICE DISTRICT  
SPECIAL ORDERS – FINAL ADOPTION**

President Cockrum convened the Police Special Service District Council.

PROPOSAL NO. 318, 2009. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 318, 2009 on September 17, 2009. The proposal, sponsored by Councillor Vaughn, adopts the annual budget for the Police Special Service District for 2010. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Vaughn moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 318, 2009 was adopted on the following roll call vote; viz:

*24 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Speedy, Vaughn*  
*2 NAYS: Mansfield, Sanders*  
*1 NOT VOTING: Mahern (D)*  
*2 ABSENT: Minton-McNeill, Smith*

Proposal No. 318 2009 was retitled POLICE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2009, and reads as follows:

**FIRE SPECIAL SERVICE DISTRICT  
SPECIAL ORDERS – FINAL ADOPTION**

President Cockrum convened the Fire Special Service District Council.

PROPOSAL NO. 319, 2009. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 319, 2009 on September 17, 2009. The proposal, sponsored by Councillor Vaughn, adopts the annual budget for the Fire Special Service District for 2010. By a 76-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Nytes asked for an explanation of why they are again acting on the police and fire budgets after already having done so. Mr. Elrod said that the tax rate levy was frozen for the old police and fire districts, and the statute requires the Council to meet as a different Council to adopt that rate. These proposals simply impose the levy on those old taxing districts so that they have the authority to spend. The expenditures are budgeted in the large overall budget.

Councillor Vaughn moved, seconded by Councillor Brown, for adoption. Proposal No. 319, 2009 was adopted on the following roll call vote; viz:

*26 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn*

0 NAYS:  
1 NOT VOTING: Mahern (D)  
2 ABSENT: Minton-McNeill, Smith

Proposal No. 319 2009 was retitled FIRE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2009, and reads as follows:

**SOLID WASTE SPECIAL SERVICE DISTRICT  
SPECIAL ORDERS – FINAL ADOPTION**

President Cockrum convened the Solid Waste Collection Special Service District Council.

PROPOSAL NO. 320, 2009. Councillor Hunter reported that the Public Works Committee heard Proposal No. 320, 2009 on September 10, 2009. The proposal, sponsored by Councillor Hunter, adopts the annual budget for the Solid Waste Collection Special Service District for 2010. By a 9-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Hunter moved, seconded by Councillor Moriarty Adams, to make a technical amendment to change the tax rate and assessed valuations as per the certified amounts as done earlier in other portions of the budget. Proposal No. 320, 2009 was amended on the following roll call vote; viz:

26 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn  
0 NAYS:  
1 NOT VOTING: Mahern (D)  
2 ABSENT: Minton-McNeill, Smith

Councillor Hunter moved, seconded by Councillor Cardwell, for adoption. Proposal No. 320, 2009, as amended, was adopted on the following roll call vote; viz

26 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Speedy, Vaughn  
0 NAYS:  
1 NOT VOTING: Mahern (D)  
2 ABSENT: Minton-McNeill, Smith

Proposal No. 320 2009 was retitled SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2009, and reads as follows:

President Cockrum reconvened the City-County Council.

Councillor Vaughn made the following motion:

Mr. President:

Because of the complexity and inter-related calculations of the budget proposals and amendments just adopted, I move that the General Counsel and Chief Financial Officer are authorized with the concurrence of the Office of Finance and Management to correct any technical or computational

*September 21, 2009*

errors in the budget ordinances and resolutions as necessary to accurately reflect the actions of this Council.

Councillor Moriarty Adams seconded the motion, and the motion carried by a unanimous voice vote.

### **NEW BUSINESS**

Councillor McQuillen stated that a long-time Crestview Elementary School teacher, Sandy Bartonbach was lost recently in a homicide. He asked that anyone with knowledge about this or any other unsolved crime please call IMPD homicide. He asked that everyone also keep the families of the victims of violent crime in their prayers.

### **ANNOUNCEMENTS AND ADJOURNMENT**

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Sanders stated that she had been asked to offer the following motion for adjournment by:

- (1) All Councillors in memory of Myles Brand and Melvin Simon; and
- (2) Councillors Day, Speedy and McQuillen in memory of Jack Perry; and
- (3) Councillor Cain in memory of Steven Michael Pearce and Mary Skinner; and
- (4) Councillors Cain and Mansfield in memory of Charley Kirk; and
- (5) Councillor Pfisterer in memory of Robert Keithley; and
- (6) Councillor Sanders in memory of Jane Lippincott Haldeman and Theodore Clarence Mays, Jr.

Councillor Sanders moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Myles Brand, Melvin Simon, Jack Perry, Steven Michael Pearce, Mary Skinner, Charley Kirk, Robert Keithley, Jane Lippincott Haldeman, Theodore Clarence Mays, Jr.. She respectfully asked the support of fellow Councillors. She further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 9:37 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 21st day of September, 2009.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

President

ATTEST:

Clerk of the Council

(SEAL)