

METROPOLITAN DEVELOPMENT COMMISSION  
Docket No. 97-AO-3

THE DWELLING DISTRICTS ZONING ORDINANCE  
OF  
MARION COUNTY, INDIANA

A GENERAL ORDINANCE to amend the Revised Code of the Consolidated City and County, Chapter 731 (The Dwelling Districts Zoning Ordinance of Marion County, Indiana), as amended, 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, now, therefore:

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

SECTION 1. The Dwelling Districts Zoning Ordinance of Marion County, Indiana, Revised Code of the Consolidated City and County, Chapter 731, (adopted under Metropolitan Development Commission docket Numbers 89-AO-2, 90-AO-3, 92-AO-1, 92-AO-3, 93-AO-4, 95-AO-1, 95-AO-8 and 96-AO-4), as amended, be amended as follows:

A. That Section 2.00, A, 3, d. be amended by deleting the stricken language and inserting the underscored language as follows:

d. ~~Side and rear 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 percent (25%) of the linear frontage of the block (or a distance of two hundred [200] linear feet in either direction, whichever is the lesser), the minimum required front yard depth and setback for any new building or structure shall be the average of such established front yards if such dimension is less than the minimum required minimum front setback established by this ordinance.

(2) Expansion along an existing, legally established nonconforming front setback line. The minimum required front setback in any Dwelling District for any existing building, having a legally established front setback which is less than the required setback of the District, shall be modified to permit expansion of such building along its existing established front setback, provided that:

i. only a one time expansion along the legally established nonconforming front setback line shall be permitted: and,

ii. the linear front footage of expansion does not exceed fifty percent (50%) 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:

- encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana;
- encroach upon any existing right-of-way; or,
- encroach into a clear sight triangular areas, as required in Section 2.21, C, 1.

(3) Side and Rear Yard Setback Exceptions. (4) 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) Zoning Districts shall be subject to the following exceptions:

i. Primary Buildings:

- ii. 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 percent (50%) 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.

- 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.
- 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 percent (50%) 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.

B. That Section 2.00, A, 7, c, be amended by inserting the underscored language as follows:

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.

C. That Section 2.01, B, 6, be amended by inserting the underscored language as follows:

6. Maximum height

- a. Primary building (single-family dwelling): 35 feet; or, Forty (45) feet, if for each foot of height in excess of thirty-five (35) feet, to an absolute height of forty-five (45) feet, one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear yard setback line for each foot of building or structural height above thirty-five (35) feet (See Section 2.13, Diagram K).
- b. Accessory buildings to a single-family dwelling: 20 feet
- c. Accessory buildings essential to an agricultural enterprise: unlimited

These provisions may be subject to the exceptions of Section 2.01, C, D-A District Exceptions.

D. That Section 2.02, B, 5, be amended by inserting the underscored language as follows:

5. *Maximum height*

a. Primary building: 35 feet; or, Forty (45) feet, if for each foot of height in excess of thirty-five (35) feet, to an absolute height of forty-five (45) feet, one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear yard setback line for each foot of building or structural height above thirty-five (35) feet (See Section 2.13, Diagram K).

b. Accessory buildings: 20 feet

E. That Section 2.03, B, 5, be amended by inserting the underscored language as follows:

5. *Maximum height.*

a. Primary building: 35 feet; or, Forty (45) feet, if for each foot of height in excess of thirty-five (35) feet, to an absolute height of forty-five (45) feet, one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear yard setback line for each foot of building or structural height above thirty-five (35) feet (See Section 2.13, Diagram K).

b. Accessory buildings: 20 feet

F. That Section 2.19, B, 2, be amended by deleting the stricken language and inserting the underscored language as follows:

c. Structural barriers (including, by way of example, a chain link or solid fence, architectural screen, lattice-work or masonry wall), dense landscape plantings (including, by way of example, a continuous hedge of deciduous or evergreen shrubs), shrubs and trees shall be permitted in front, side and rear yards provided that:

(1) The height of any structural barrier shall not exceed six (6) feet.

Provided, however:

i. Any structural barrier in the required front yard shall not exceed forty-two (42) inches in height. This provision (i), shall not apply:

(a) to corner lots in Development Area One, as noted in the Thoroughfare Plan for Marion County, Indiana and reproduced in Section 2.25 as Diagram J.

For corner lots in Development Area One:

- fences up to six (6) feet in height may be permitted in any front yard which: 1. does not serve as the primary entrance (that which architecturally is designed as the main or "front door") for the dwelling; and, 2. does not face the primary entrance of a dwelling unit across the street.
- fences exceeding forty-two (42) inches in height shall not encroach beyond the building line established on the other street frontage.

(b) to any D-6, D-6II, D-7, D-8 (multifamily only), D-9, and D-10 Districts where the linear street frontage of the project exceeds five hundred (500) feet.

For multifamily projects in the above Districts:

- fences or structural barriers up to six (6) feet in height may be permitted in any front yard which exceeds five hundred (500) linear feet of frontage. For sites which have frontage on two streets, a fence or structural barrier may be up to six (6) feet in height only if the applicable street frontage exceeds five hundred (500) linear feet.
- ii. The measurement of fence height shall be taken from the ground level to the top of the fence, exclusive of fence posts (See Section 2.25, Diagram G).
- iii. Grade mounding, inconsistent with the ground level of the land surrounding the fence, which increases the elevation of the fence, will shall be included in the measurement of the fence height (See Section 2.25, Diagram H).
- iv. Fence posts may exceed the maximum height by one (1) foot (See Section 2.25, Diagrams G, H, or I).
- v. The fence itself may exceed the maximum height by an amount equal to the accompanying drop in topography along the linear run of the fence at that portion of the lot, and shall only exceed the maximum height at that location. In no case, however, shall the fence height exceed eight feet (See Section 2.25, Diagram I).
- vi. Barbed wire, razor wire and similar type wires shall not be permitted in any residential district as a part of a structural barrier except in the D-A District, where it may be used only in conjunction with an agricultural enterprise.
- vii. No structural barrier shall be electrified in any manner which could provide for an electrical shock if touched except in the D-A District, where it may be used only in conjunction with an agricultural enterprise.

G. That Section 2.19, B, 6, be amended by deleting the stricken language and inserting the underscored language as follows:

6. *Additional requirements for game courts.* The following additional requirements shall apply to game courts:
- a. Game courts shall not be located closer to any front, side or rear lot line than the required minimum front, side, and rear yard setbacks of the Dwelling District, nor shall any part of a game court project beyond the front building line as established by the existing primary building. Basketball goals, however, may be located along a driveway.
  - b. Game courts shall not be considered as building area, as defined in Section 2.25.
  - c. No game court lighting shall produce glare creating a hazard or nuisance perceptible from any point beyond the lot line. Provided, however, no game court in a D-A, D-S, D-1, D-2, D-3, D-4, D-5, or D-5II Dwelling District shall be lighted.
  - d. Fences built as a component of a regulation game court shall not be subject to the fence height limitations of Section 2.19, B, 2. c. Fences which are components of game courts shall not exceed ten (10) feet in height.

H. That Section 2.21, A, 4, b and c shall be deleted.

I. That Section 2.25, B be amended to add Diagram J and Diagram K as follows:

