

CITY-COUNTY GENERAL ORDINANCE NO. 63, 2005
Proposal No. 242, 2005

PROPOSAL FOR A GENERAL ORDINANCE to amend the zoning ordinance to authorize certain law enforcement officers to carry out inspections relating to the enforcement of zoning ordinances and land use regulations; to restrict locations for recreational vehicle parking and storage in dwelling districts; to clarify the definition of inoperable vehicle and recreational vehicle; to clarify the fencing requirement for swimming pools and hot tubs, to eliminate screening requirements for swimming pools and hot tubs and to update state statute citations.

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, 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 this article, the following definitions shall be applied:

Administrator means the Administrator of the Division of Compliance of the Department of Metropolitan Development of the Consolidated City of Indianapolis.

Designated enforcement entity means the Metropolitan Development Commission of Marion County, Indiana.

Inoperable ~~motor~~ vehicle means:

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

(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.

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.

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.

Law enforcement officer means any sworn member of the Marion County sheriff's department, Indianapolis 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.

Site improvement means the erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing or remodeling of any new or existing structure or any part thereof; any activity for which an Improvement Location Permit is required.

Zoning districts mean the districts depicted by the comprehensive zoning maps of Marion County, Indiana.

SECTION 2. Section 730-503 of the "Revised Code of the Consolidated City and County," regarding the inspection of property to enforce zoning ordinances, 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. 730-503. Inspection of property; right of entry.

(a) The Administrator, ~~and~~ inspectors and law enforcement officers are authorized to make inspections of all lands located within Marion County in order to enforce all zoning ordinances and land use regulations of Marion County, Indiana.

(b) In order to execute inspections, the Administrator, ~~and~~ inspectors and law enforcement officers shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out his/their duties in the enforcement of zoning ordinances and land use regulations of Marion County, Indiana, unless the owner or occupant of the premises refuses to permit entry to the Administrator, ~~or~~ inspectors or law enforcement officers when such entry is sought pursuant to this section. In the event of such refusal, the Administrator may make application to any judge of the municipal, circuit or superior courts of Marion County, Indiana, for the issuance of an administrative search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is a violation of a zoning ordinance or land use regulation of Marion County, Indiana, exists on such premises, or that a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming use to the best of the affiant's belief. Any warrant issued pursuant to such application shall order such owner or occupant to permit entry to the Administrator, ~~or~~ inspectors or law enforcement officers for the purposes stated therein. In no event shall the Administrator, ~~or~~ inspectors or law enforcement officers have the right to enter a residential structure or other structures not open to the public without the permission of the owner or occupant and/or an administrative search warrant first obtained. Prior to entering such residential structure or other structure not open to the public, the Administrator, ~~or~~ inspectors or law enforcement officers shall advise the owner or occupant that such owner or occupant is not required to grant entry without the presentation of an administrative search warrant.

SECTION 3. Section 730-505 of the "Revised Code of the Consolidated City and County," regarding the outside storage of inoperable vehicles, hereby is amended by the deletion of the language that is stricken-through, to read as follows:

Sec. 730-505. Civil zoning violations.

(a) It shall be unlawful for any person who is the owner or contract vendee of, or who has a possessory interest in, real property located in Marion County to cause, suffer or allow any of the following civil zoning violations to occur on such property:

- (1) The location, erection, or maintenance of any sign not specifically permitted by Chapter 734 of this Code;
- (2) The failure to obtain an Improvement Location Permit when one is required by the terms and provisions of Article III of this chapter;
- (3) The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use;
- (4) The outdoor storage of inoperable ~~motor~~ vehicles or ~~motor~~ vehicle parts in any zoning district, the provisions of which do not specifically permit such a use;
- (5) The parking or storage in any zoning district, the provisions of which do not specifically permit such a use, of any ~~motor~~ vehicle used or designed (a) for use in pulling, towing, hauling, transporting, or (b) as a temporary or permanent base, platform or support for equipment, machinery, materials or other goods. This provision shall include but not be limited to school buses, buses used for public transportation, stake body trucks, dump trucks, trucks or tractors having dual rear wheels or more than two (2) axles, semi-trailer tractors, semi-trailers and trailers having dual rear wheels or more than one (1) axle or having an overall length of more than twelve (12) feet. However, this provisions does not apply to motor vehicles which do not exceed the three-quarter ton load classification in size and which are the sole vehicular transportation for a resident of the property upon which the commercial motor vehicle is parked or stored;

- (6) The outdoor storage or display of merchandise or goods in any zoning district, the provisions of which do not specifically permit such a use or in violation of zoning district development standards regulating such use;
- (7) The conduct of any activity in a dwelling zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district, and which activity has not been legally established by a currently valid variance, special exception or other approval grant;
- (8) Failure to comply with zoning district development standards, including but not limited to landscaping, paving or striping of parking areas, minimum parking space requirements, dumpster enclosure, fencing or screening requirements;
- (9) The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, rezoning ordinance, or other approval grant; and
- (10) The violation of a stop-work order issued pursuant to section 730-504.

(b) Each day a civil zoning violation remains uncorrected constitutes a second or subsequent violation. It shall be a defense to an action to enforce a civil zoning violation that the use or activity alleged to be a civil zoning violation is a legally established nonconforming use.

SECTION 4. Section 731-102 of the "Revised Code of the Consolidated City and County," regarding zoning ordinance definitions for the dwelling districts, 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. 731-102. Definitions.

The words in the text of this article and Article II of this chapter shall be interpreted in accordance with the definitions set forth below.

- (1) *Abut*: To physically touch or border upon; or to share a common property line.
- (2) *Access*: The way by which vehicles shall have ingress to and egress from a land parcel or property and the either street fronting along said property or parcel or an abutting alley.
- (3) *Access drive*: That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property. (See Diagram A [not included herein].)
- (4) *Accessory*: A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.
- (5) *Administrator*: Administrator of the Division of Planning or his/her appointed representative.
- (6) *Agricultural enterprise*: The land use of farming, cultivation of crops, dairying, pasturage, horticulture, floriculture, viticulture, animal and poultry husbandry, with the necessary, accompanying accessory use(s), building(s), or structure(s) for housing, packing, treating, or storing said products.
- (7) *Alley*: Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from said lot(s).
- (8) *Alteration*: Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

- (9) *Antenna*: A device that is designed to receive:
- a. Direct broadcasts satellite service, including direct-to-home satellite services; or
 - b. Video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or
 - c. Television broadcast signals.
- (10) *Attached multifamily dwelling*: See "Dwelling, multifamily attached."
- (11) *Awning*: A roof-like cover, often of fabric, metal or glass designed and intended to either protect from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or a similar feature.
- (12) *Balcony, exterior*: An unenclosed platform structure supported by and projecting from the exterior side of a building gaining sole access from said building, and designed and intended for either decorative purposes or lounging, dining, and similar activities.
- (13) *Basement*: That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half (1/2) or more of its interior vertical height clearance below grade level.
- (14) *Bathroom*: An accessory building of one (1) or more rooms not open to the public, designed and intended for exclusive use by occupant(s) of the primary use and their guest(s) as dressing room(s) and may or may not include sanitary facilities.
- (15) *Bed and breakfast*: The commercial leasing of bedroom(s) for guest(s) within a private, owner-occupied, one- or two-family dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee. Such leasing may also provide for the temporary accommodation of daytime meetings or receptions for guests for a fee. Such leasing caters largely to tourists and the travelling public.
- (16) *Boardinghouse*: A community facility, other than hotels, motels, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants thereof, is provided for a fee.
- (17) *Buildable area*: The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met. (See Diagram B [not included herein].)
- (18) *Building*: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having an enclosed space and a permanent roof supported by columns or walls.
- (19) *Building area*: The total ground area, within the lot or project, covered by the primary structure, plus garages, carports and other accessory structures which are greater than eighteen (18) inches above grade level, excluding fences and walls not attached in any way to a roof (See Diagram B [not included herein].)
- (20) *Cabana*: Same as "Bathroom".
- (21) *Canopy*: A rooflike cover, often of fabric, metal, or glass on a support, which is supported in total or in part, from the ground providing shelter over a doorway or outside walk.
- (22) *Carport*: A roofed structure designed and intended to shelter the automotive vehicle(s) of the premises' occupant(s) or owner(s), with at least one (1) side permanently open to the weather.

(23) *Child*, per IC 12-7-2-28: An individual who is less than eighteen (18) years of age.

(24) *Child care*, per IC 12-7-2-28.2: A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

(25) *Child care home*, per IC 12-7-2-28.6:

a. A residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian or other relative) at any time receive child care from a provider:

1. While unattended by a parent, legal guardian, or custodian;
2. For regular compensation; and
3. For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

b. The term includes:

1. A class I child care home;
2. A class II child care home; and
3. Exempt licenses, per 470 IAC 3-1.1-26.

(26) *Class I child care home*, per IC 12-7-2-33.7:

a. A child care home that serves any combination of full-time and part-time children, not to exceed twelve (12) children at any one (1) time.

b. A child:

1. For whom the provider of care is a parent, stepparent, guardian, custodian or other relative; and
2. Who is at least seven (7) years of age; shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

(27) *Class II child care home*, per IC 12-7-2-33.8:

a. A child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time.

b. A child:

1. For whom the provider of care is a parent, stepparent, guardian, custodian, or other relative; and
2. Who is at least seven (7) years of age; shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

(28) *Cluster*: A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features in perpetuity.

(29) *Cluster subdivision*: A form of development for single-family residential subdivisions that permits a reduction in the minimum lot: area, width, setback and open space requirements and to concentrate development in specific areas of the subdivision while also maintaining the same

overall density permitted under a conventional subdivision in a given zoning district, and, the remaining land area is devoted to open space, or recreational areas in perpetuity.

- (30) *Collector street*: See "Street, collector".
- (31) *Commission*: The Metropolitan Development Commission of Marion County, Indiana.
- (32) *Commitment*: An officially recorded agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.
- (33) *Comprehensive plan*: The applicable comprehensive or master plan for Marion County, Indiana, or a segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4-500 Series, and all acts amendatory thereto.
- (34) *Condition*: An official agreement between the municipality and the petitioner concerning the use or development of the land as specified in the letter of grant of a variance, special exception or approval petition as signed by the Administrator.
- (35) *Condominium*: A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis.
- (36) *Corner lot*: See "Lot, corner".
- (37) *Covenant*: A private legal restriction on the use of land contained in the deed, plat and other legal documents pertaining to the property.
- (38) *Covenant, parol*: A verbal, binding agreement, made at a public parol hearing, restricting the use of the land.
- (39) *Covered open space*: See "Open space, covered".
- (40) *Crown of the street*: The highest point of pavement between the existing curb lines of a street cross-section, most often at the centerline.
- (41) *Cul-de-sac*: See "Street, cul-de-sac".
- (42) *Curb cut*: The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street. (See Diagram A [not included herein].)
- (43) *Curb line*: A line located on either edge of the pavement, but within the right-of-way line. (See Diagram A [not included herein].)
- (44) *Deck*: A ground-supported, unenclosed, accessory platform structure, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised eighteen (18) inches or more above grade level designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.
- (45) *Double dwelling*: Same as "Dwelling, two-family".
- (46) *Drip line*: The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.
- (47) *Driveway*: Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line. (See Diagram A [not included herein].)
- (48) *Duplex*: Same as "Dwelling, two-family".

- (49)*Dwelling, manufactured home*: A unit which is fabricated in one (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.
- (50)*Dwelling, mobile*: 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 Chapter 8, Article III, Division IV of the Code of Indianapolis and Marion County, and which was either:
- a. Constructed prior to June 15, 1976, and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or,
 - b. Constructed subsequent to or on June 15, 1976, and bears a seal certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.
- (51)*Dwelling, modular home*: A unit which is fabricated in one (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, designed for occupancy by one (1) family unit. Every module shall bear the seal certified that it was built in compliance with Indiana Public Law 360. The unit must have been built in compliance with the CABO One- and Two-Family Dwelling Code.
- (52)*Dwelling, multifamily*: See "Dwelling, attached multifamily".
- (53)*Dwelling, attached multifamily*: A building for residential purposes with three (3) or more dwelling units, having common or party walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).
- (54)*Dwelling, single-family*: A site-built building for one (1) dwelling unit.
- (55)*Dwelling, two-family*: A building designed originally for residential occupancy by two (2) families living independently of each other, which contains two (2), legally complete, dwelling units. Each unit in a two-family dwelling is completely separated from the other by either; a) an unpierced wall extending from ground to roof; or, b) an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
- (56)*Dwelling unit*: One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.
- (57)*Erect*: Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.
- (58)*Excavation*: The breaking of ground, except common household gardening, ground care and agricultural activity.
- (59)*Family*: One (1) or more human beings related by blood, marriage, adoption, foster care or guardianship together with incidental domestic servants and temporary, noncompensating guests; or, not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.

- (60)*Fence*. A type of structural barrier usually made of posts supporting such items, by way of example, as chain link, wood pickets, lattice-work, and similar items.
- (61)*Finished floor area*: That portion of floor area constructed, completed and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, sanitary, or combination thereof. A floor area or portion thereof used only for storage purposes and not equipped with the facilities previously identified shall not be considered finished floor area.
- (62)*Floor area*: For one- and two-family dwelling units, the sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such buildings or portions thereof. The floor area of a building shall exclude all areas with a vertical height clearance less than seventy-eight (78) inches, exterior open balconies, and open porches.
- For attached or detached multifamily dwelling(s), the sum of all horizontal surface areas of all floors of all roofed portions of all buildings enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such buildings or portions thereof. However, this does not include the following:
- a. All areas with a vertical height clearance less than seventy-eight (78) inches;
 - b. All exterior open balconies, and open porches;
 - c. Floor or basement floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space;
 - d. Floor or basement floor area provided for recreational uses, available to occupants of two (2) or more living units within a project; or
 - e. Basement floor area provided for storage facilities, allocated to serve individual living units within a project.
- (63)*Floor area ratio (FAR)*: The aggregate floor area of all stories of all buildings within the project divided by the land area.
- (64) *Front lot line*: See "Lot line, front".
- (65)*Front yard*: See "Yard, front".
- (66)*Frontage*: The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.
- (67)*Frontage, public street*: The line of contact of abutting property with the public street along the front lot line which allows unobstructed direct access to the property.
- (68)*Full control of access*: The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access said property(ies), including the location and connection with public streets, is controlled by public authority. Full control of access gives preference to through vehicular traffic movement, by providing access connections with selected public streets only, and by prohibiting both crossings at grade and direct driveway connections.
- (69)*Game court*: A type of recreation facility which consists of an unpaved or paved, accessory, surface area of ground open and essentially unobstructed to the sky, on the same lot as the primary structure, designed and intended for the playing of a recognized sport as an accessory, recreational activity by the occupants and guests of the primary structure, which may include fencing, screening, nets, goals, or other necessary appurtenances required for the recreational use.

- (70)*Garage, residential*: A building accessory to a residential use, or an enclosed area attached or integrated into a residential building, which is primarily designed and intended to be used for the storage of the private vehicle(s) for the occupant(s) of said residence and is not a separate commercial enterprise available to the general public.
- (71)*Gazebo*: A roofed, ground-supported, unenclosed, accessory platform structure, usually constructed of wood, stone, brick, or metal designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.
- (72)*Grade, established street*: The crown elevation of a street pavement level abutting the property as fixed by the appropriate government agency(ies).
- (73)*Grade level (adjacent ground elevation)*: The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from said walls, between said walls and a line ten (10) feet away from and paralleling said walls.
- (74)*Gross acre*: A horizontal measure of land area equal to forty-three thousand five hundred sixty (43,560) square feet.
- (75)*Ground cover*: Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, or a similar feature.
- (76)*Ground floor*: That story which contains finished floor area closest to but not below grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.
- (77)*Group home*: A residential facility for the developmentally disabled (as defined by IC 12-7-2-166) or a residential facility for the mentally ill (as defined in IC 12-7-2-167), licensed by the Community Residential Facilities Council, or its successor in authority in accordance with a program described in:
- a. IC 12-11-1.1 (residential facility for the developmentally disabled); or
 - b. IC 12-22-2-3(2) through 12-22-2-3(6) (residential facility for the mentally ill).
- (78)*Handicap ramp*: Same as "Pedestrian ramp".
- (79)*Hard-surfaced*: Quality of an outer area being solidly constructed of pavement, brick, paving stone, tile, wood, or a combination thereof.
- (80)*Hedge*: A row or rows of closely planted shrubs, bushes, or combination thereof creating a vegetative barrier.
- (81)*Height, building*: The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:
- a. The elevation of the highest adjoining sidewalk or ground surface within a ten (10) foot horizontal distance from and paralleling the exterior wall of the building or structure when said sidewalk or ground surface is not more than ten (10) feet above lowest grade; or
 - b. An elevation ten (10) feet higher than the lowest grade when said sidewalk or ground surface is more than ten (10) feet above the lowest grade.
- (82)*Heliport*: An area of land, water or structural surface which is used, or intended for use, for the lawful landing and takeoff of helicopters, and any appurtenant areas which are used, or intended

for use for heliport buildings and auxiliary facilities, such as, parking areas, waiting rooms, fueling, storage and maintenance equipment areas.

(83)*Helistop*: An area of land, water or structural surface which is used, or intended for use, for the landing and takeoff of helicopters, without the provision of fueling, repair, maintenance or storage facilities.

(84)*Home occupation*: An occupation or business activity carried on within:

- a. A legally established dwelling unit, or;
- b. An associated accessory structure (in those cases where the business activity is a legally established nonconforming occupation which occupies such associated accessory structure), by a resident of said dwelling, where the occupation or business activity is clearly incidental and subordinate to the residential use and does not alter the character thereof.

(85)*Hospital*: An institution housed in a building, group of buildings or portion thereof, providing primary health services and psychological, medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient or training facilities.

(86)*Hotel*: Any building or group of buildings, containing guest rooms without direct access to the outside, designed or intended to be occupied for sleeping purposes by guests for a fee with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the travelling public.

(87)*Interior access drive*: A minor, private or public street providing access within the boundaries of a project beginning at the required setback line. (See Diagram A [not included herein].)

(88)*Interior access driveway*: Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels. (See Diagram A [not included herein].)

(89)*Land area*: The total horizontal area within the project boundaries, plus the area of half of any abutting alley or street rights-of-way.

(90)*Landscaping*: Any combination of sculpture, fountains, pools, and walkways with substantial living vegetation, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained and groomed to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion, drainage and wind control.

(91)*Legally established nonconforming building or structure*: Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment, or granted variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.

(92)*Legally established nonconforming use*: Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

(93)*Livability space*: The open space minus the vehicle area within the open space.

(94)*Livability space ratio (LSR)*: The livability space divided by the floor area.

(95)*Local street*: See "Street, local".

(96)*Lot*: A piece, parcel, plot or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and occupied or intended for occupancy by a use permitted in the zoning ordinances for Marion County, Indiana, including one (1) or more main buildings, accessory uses thereto and the required yards as provided for the zoning ordinances of Marion County, Indiana and may consist of:

- a. A single lot of record; or
- b. A portion of a lot of record; or
- c. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

A lot may or may not coincide with a lot of record. For purpose of this definition, the ownership of a lot is further defined to include:

- a. The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;
- b. A contract vendee;
- c. A long-term lessee (but only if the lease is recorded among the records of the County Recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit). (See Diagram C [not included herein].)

(97)*Lot area*: The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street or easement for surface access ingress or egress into the subject lot or adjoining lots.

(98)*Lot, corner*: A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. (See Diagram C [not included herein].)

(99)*Lot, through*: A lot which fronts upon two (2) parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot. (See Diagram C [not included herein].)

(100) *Lot line*: The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

(101) *Lot line, front*: The lot line(s) separating the lot from street rights-of-way; in the case of a corner lot, both lot lines separating the lot from the street rights-of-way shall be considered front lot lines; or, in the case of a through lot, the lot line which most closely parallels the primary entrance of the primary structure shall be considered the front lot line. (See Diagram B [not included herein].)

(102) *Lot line, rear*: A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line ten (10) feet in length with the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot line, any lot line which intersects with a front lot line shall not be considered a rear lot line.

(103) *Lot line, side*: Any lot line not designated as a front or rear lot line.

(104) *Lot of record*: A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the Office of the Recorder of Marion County, Indiana. A lot of record is not necessarily a piece, parcel, plot or tract designated or used for single ownership.

(105) *Main floor area*: The area of a horizontal plane fully bound by the exterior walls of the primary building or structure of the floor surface at or above grade level exclusive of vent shafts, decks, garages, uncovered or covered open space.

- (106) *Major livability space*: The total area in a project provided for outdoor recreation, relaxation, amusement, pleasure and for similar use within the project, which area may or may not be improved; however, all livability space countable for purposes of computing the major livability space ratio shall be at least twenty (20) feet away from any ground floor residential wall containing one (1) or more windows and shall have a minimum linear dimension averaging eighty (80) feet, except that an area of lesser dimension is countable if:
- a. The total required major livability space is less than six thousand four hundred (6,400) square feet, or
 - b. The shape or topography of the site alone prevents compliance with the minimum dimensions.
- (107) *Major livability space ratio (MLSR)*: The total major livability space of countable size divided by the aggregate floor area.
- (108) *Manufactured home*: See "Dwelling, manufactured home".
- (109) *Marginal access street*: See "Street, marginal access".
- (110) *Mini-barn*: A freestanding, completely enclosed, accessory building constructed of stone, brick, metal or wood designed with a rural character and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also "Shed".)
- (111) *Minor emergency repairs*: Those maintenance repairs necessitating immediate solution yet not posing an immediate life safety hazard, nor altering the existing character of the structure (See "Alteration").
- (112) *Mobile dwelling*: See "Dwelling, mobile".
- (113) *Mobile dwelling project*: See "Project, mobile dwelling".
- (114) *Modular home*: See "Dwelling, modular home".
- (115) *Motel*: Any building or group of buildings, containing guest rooms, with at least twenty-five (25) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building(s), designed or intended to be occupied for sleeping purposes by guests for a fee and where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the travelling public.
- (116) *Mulch*: A protective covering of vegetative substances placed around plants to prevent evaporation of moisture, freezing, and to control weeds.
- (117) *Multifamily dwelling*: See "Dwelling, multifamily".
- (118) *Off-street*: A location completely on private land, and completely off of public rights-of-way, alleys and any interior surface access easement for ingress and egress.
- (119) *Open porch*: An unenclosed structure, open to the sky, supported from the ground and attached to or a part of a building at the area of entrance or exit to said building facilitating access to said building from the ground.
- (120) *Open space*: The total horizontal area of all uncovered open space plus one-half (1/2) of the total horizontal area of all covered open space.
- (121) *Open space, covered*: All exterior space within the project, which is open and exposed to the weather, but not open above to the sky. It includes porches, carports, covered exterior balconies and exterior spaces covered by portions of buildings.

- (122) *Open space, uncovered*: In D-6, D-6II, D-7, D-8, D-9, D-10 and D-11 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II and D-12 districts; and D-8 single- and two-family dwellings: the lot area, minus the building area.
- (123) *Open space ratio (OSR)*: The open space divided by the floor area.
- (124) *Parking area*: An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space. (See Diagram A [not included herein].)
- (125) *Parking space*: An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle. (See Diagram A [not included herein].)
- (126) *Part-time*: A period of at least twenty-five (25) percent less than a regular or customarily full schedule of a specific activity, such as employment.
- (127) *Partial control of access*: The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access said property(ies), including the location and connection with public streets, is controlled by public authority. Partial control of access gives preference to through vehicular traffic movement to a degree that, in addition to access connections with selected public streets, there may be crossings at grade and some driveway connections.
- (128) *Patio*: A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one (1) side open to the weather and essentially unobstructed to the sky. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles. (See also "Deck.")
- (129) *Patio, covered*: A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one (1) side open to the weather and permanently roofed or similarly covered. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles.
- (130) *Paved-stand*: A permanent area specifically designed and intended for the location, securing, and use of a mobile dwelling on a non-temporary basis encompassing completely the area immediately below or covered by such dwelling including necessary plumbing, power, and other utility installations. The mobile dwelling's foundation, consisting of runners, ribbons or piers, usually made of concrete for the purpose of blocking the dwelling, are within this area.
- (131) *Pavement*: A layer of concrete, asphalt or coated macadam used on street, sidewalk, or airport surfacing.
- (132) *Paving*: See "Pavement".
- (133) *Pedestrian ramp*: An inclined access opening along the curbline at which point pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, may enter or leave the street; or, an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, access from the ground to an elevated surface.
- (134) *Perimeter yard*: See "Yard, perimeter".
- (135) *Permitted use*: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

- (136) *Plat*: An officially recorded map, as recorded in the Office of the Marion County Recorder, or a map intended to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.
- (137) *Porch*: A roofed structure with at least one (1) side exposed to the weather, supported from the ground and attached to or part of a building at the area of entrance or exit to said building.
- (138) *Porte-cochere*: A roofed, sheltering structure supported from the ground and attached to or a part of a building, which projects over an entrance/exit, walkway, driveway, or similar feature.
- (139) *Primary building*: The building in which the permitted primary use of the lot is conducted.
- (140) *Principal homestead*: The dwelling unit in which the primary users of the agricultural enterprise reside.
- (141) *Project*: A lot or parcel of contiguous land to be developed for a use or uses permitted in the D-6, D-6II, D-7, D-8, D-9, D-10, D-11 dwelling districts, which at the time of development is under one (1) ownership or control, and subsequently may be subdivided, developed, or conveyed into smaller lots or parcels.
- (142) *Project boundaries*: The perimeter lot lines encompassing the entire project as indicated in the Office of the Marion County Recorder.
- (143) *Project, mobile dwelling*: An area of contiguous land separated only by a street(s) upon which three (3) or more mobile dwellings are designated spaces or lots for the purpose of being occupied as primary residences and includes all real and personal property used in the operation of said mobile dwelling project or, an area of contiguous land separated only by a street, that is subdivided and contains individual lots which are or intended to be sold, leased or similarly contracted for the purpose of being occupied as a primary residence, is a mobile dwelling project if three (3) or more lots or sites are designated specifically to accommodate mobile dwellings.
- (144) *Public street frontage*: See "Frontage, public street".
- (145) *Rear yard*: See "Yard, rear".
- (146) *Recreation facility*: A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.
- (147) *Recreation facility, commercial*: A recreation facility operated as a for profit business and open to the public for a fee.
- (148) *Recreation facility, personal*: A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests without a fee.
- (149) *Recreation facility, private*: A recreation facility operated by a nonprofit organization, and open only to bona fide members and guests of such nonprofit organization.
- (150) *Recreation facility, public*: A recreation facility operated by a governmental agency and open to the general public.
- (151) *Recreational vehicle*: A self-propelled or towed vehicle, which may be motorized, non-motorized, self-propelled or towed, designed and intended specifically for non-commercial use, such as temporary living, travel, and leisure activities, including the trailer that may transport the vehicle. Examples include but not limited to boats, jet skis, race cars, all-terrain bikes, motor homes, travel trailers, and camping trailers.
- (152) *Religious use*: A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which

are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

- (153) *Residential in character*: Possessing the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height, bulk, materials, detailing and similar features.
- (154) *Right-of-way*: Specific and particularly described land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage of pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.
- (155) *Right-of-way, public*: Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.
- (156) *Right-of-way, private*: Specific and particularly described strip of privately held land devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.
- (157) *Setback*: The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line. (See Diagram B [not included herein].)
- (158) *Setback line*: A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line. (See Diagram B [not included herein].)
- (159) *Shed*: A freestanding, completely enclosed, accessory building, designed and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also "Mini-barn".)
- (160) *Shrub*: A woody plant of relatively low height branching from the base not exceeding ten (10) to twelve (12) feet in height.
- (161) *Side yard*: See "Yard, side".
- (162) *Sidewalk*: A hard-surfaced walk or raised path along and paralleling the side of the street for pedestrians.
- (163) *Single-family dwelling*: See "Dwelling, single-family".
- (164) *Skirting*: The rigid physical attachments to a mobile dwelling designed and intended to completely screen, shelter, and protect the unit's base and entire area between the unit's floor surface and the ground surface, which includes, but not limited to, all electrical and plumbing conduits, insulation material, and undercarriage.
- (165) *Site plan*: The development plan, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot as required by ordinance, in order that an informed decision can be made by the approving authority.
- (166) *Storage area*: An area designated, designed and intended for the purpose of reserving personal property for a future use and distinguished from areas used for the display of property intended to be sold or leased.
- (167) *Storage room*: An enclosed area integrated into a and sharing common or party wall or walls within a primary building, while designed and intended for the purpose of reserving personal property for a future use.

- (168) *Story*: That part of a building, with an open height of no less than seventy-eight (78) inches, except a mezzanine, included between the upper surface of one (1) floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a story only if it provides finished floor area.
- (169) *Street, collector*: A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets, collectors, and arterials with direct access to abutting property(ies). (See Diagram D [not included herein].)
- (170) *Street, cul-de-sac*: A street having only one (1) open end and being permanently terminated by a vehicle turn around. (See Diagram D [not included herein].)
- (171) *Street, expressway*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at relatively high speeds (e.g., forty-five (45) mph) with partial control of access. The function of an expressway is primarily to move traffic rather than to serve abutting property(ies). Access control on an expressway is characterized by medians, marginal access streets and selective intersection location.
- (172) *Street, freeway*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at high speeds (e.g., fifty-five (55) mph) with full control of access. The primary function of a freeway is the movement of traffic, particularly long trips made within or through the county.
- (173) *Street, local*: A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies). (See Diagram D [not included herein].)
- (174) *Street, marginal access*: A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to a butting property(ies). (See Diagram D [not included herein].)
- (175) *Street, parkway*: Any street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, with partial control of access thereto, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and thoroughfare plan. Partial control of access to a parkway permits access connections only at street intersections.
- (176) *Street, primary arterial*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite and channelize high volumes of vehicular traffic movement at moderate speeds (e.g., thirty-five (35) to forty-five (45) mph) between arterials, expressways, and freeways with partial control of access. The function of a primary arterial is primarily to move traffic rather than to serve abutting property(ies).
- (177) *Street, private*: A privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and similar features.
- (178) *Street, public*: A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

- (179) *Street, secondary arterial*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite medium to high volumes of vehicular traffic movement at moderate speeds (e.g., thirty-five (35) to forty-five (45) mph) between collectors, arterials, expressways, freeways, and abutting property(ies) with partial control of access. Secondary arterials carry a higher percentage of short trips than do primary arterials.
- (180) *Structural barrier*: A physical structure, such as a fence, wall, or railing, that forms a boundary of, or enclosure to, a property or acts as a division between properties.
- (181) *Structure*: A combination or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.
- (182) *Subdivision*: The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development, provided however, that the division of land into parcels of more than three (3) acres, not involving any new streets or easements of access, and the transfer or exchange of parcels between adjoining landowners, if such transfer or exchange does not create additional building lots, shall not constitute a subdivision for purposes of this ordinance.
- (183) *Temporary use*: An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.
- (184) *Terrace*: An open, raised bank or banks of earth having vertical or sloping side(s) and a horizontal top.
- (185) *Thoroughfare*: A street primarily serving thorough vehicular traffic, including freeways, expressways, primary thoroughfares, and secondary thoroughfares as designated by the thoroughfare plan.
- (186) *Thoroughfare plan*: The applicable segment of the comprehensive or master plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to Chapter 283 of the Acts of the Indiana General Assembly for 1955, and all acts amendatory thereto, which sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary thoroughfares, secondary thoroughfares, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.
- (187) *Through lot*: See "Lot, through".
- (188) *Total car ratio (TCR)*: The total number of parking spaces divided by the number of dwelling units.
- (189) *Total floor area*: The aggregate floor area of all stories of the primary buildings or structures.
- (190) *Trash enclosure*: An accessory structure enclosed on all sides, possessing a solid, securable door or gate for access designed and intended to completely screen and protect waste receptacles from view on all sides, and to prevent waste debris from dispersal outside the receptacles or enclosure.
- (191) *Tree survey*: An inventory of all trees on a lot or project prior to any site development preparation, identifying species, location, caliper, and drip line of trees.
- (192) *Two-family dwelling*: See "Dwelling, two-family".

- (193) *Uncovered open space*: In D-6, D-6II, D-7, D-8, D-9, D-10, D-11 and D-12 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-8, and D-12 districts: the lot area, minus the building area.
- (194) *Underground storeroom*: An accessory structure which is at least seventy-five (75) percent subterranean, utilized for storage of personal property or a temporary shelter for people, such as a fallout shelter.
- (195) *Unit*: A single, complete entity.
- (196) *Usable roof area*: The total roof area, within the project or residential buildings, garages and accessory buildings which has been improved for outdoor uses of occupants. Roof areas used for the storage of automotive vehicles are included.
- (197) *Vehicle area*: Uncovered or covered area used for vehicular traffic, maneuvering and parking. Included are all parking areas, driveways, interior access drives and rights-of-way of all streets and alleys within the project, plus the area of half of any abutting alley or street rights-of-way.
- (198) *Walkway*: A hard-surfaced walk or raised path for pedestrians.
- (199) *Yard, front*: An open space unobstructed to the sky, extending fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B [not included herein].)
- (200) *Yard, interior*: An open space unobstructed to the sky, extending fully across the mobile dwelling site while situated between the edge of pavement of the street or interior access drive and a line paralleling thereto, which passes through the nearest point of any building or structure and terminates at the intersection of the individual mobile dwelling site's boundary lines.
- (201) *Yard, perimeter*: A required yard of a project, in addition to front, rear and side yards, situated between and extending along the project boundary and an interior line paralleling thereto. The width of said yard shall be determined by the applicable zoning district zoning classification of the ordinance. (See Diagram E [not included herein].)
- (201) *Yard, rear*: An open space unobstructed to the sky extending fully across the lot situated between the rear lot line and a parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B [not included herein].)
- (202) *Yard, side*: An open space unobstructed to the sky extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first. (See Diagram B [not included herein].)

SECTION 5. Section 731-219 of the "Revised Code of the Consolidated City and County," regarding accessory uses in the zoning ordinance for the dwelling districts, 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. 731-219. Accessory uses.

(a) Permitted accessory uses. The following accessory uses shall be permitted in all dwelling districts, except the D-11 dwelling district (see section 731-215(a)(5) for permitted accessory uses in this district), subject to the accessory use requirements of section 731-219(b) and the dwelling district regulations of section 731-200:

- (1) Garages; carports; porches; decks; awnings; canopies; mini-barns; storage sheds; patios; outdoor fireplaces; porte-cocheres; bathhouses; cabanas; children's playhouses;

swings and other play structures or equipment; greenhouses and other accessory buildings or structures similar and comparable in character to these permitted uses. (See additional requirements of this section.)

- (2) Off-street parking areas, as regulated in section 731-221(e).
 - (3) Signs, as regulated by The Sign Regulations of Marion County, Indiana, 71-AO-4, as amended.
 - (4) Private swimming pools, hot tubs and similar structures (see additional requirements of this section).
 - (5) Amateur radio sending and receiving antennas, provided the height thereof (including masts) shall not exceed seventy-five (75) feet measured from finished lot grade at the base of the antennas and further provided that such antennas shall not be located in the front yard as established by the building line of the existing primary building.
 - (6) Management office in multifamily districts and other facilities normally associated with tenants' convenience, such as clubhouses, recreational facilities, laundry facilities, maintenance facilities, provided, however, there is no exterior storage or display.
 - (7) Underground storerooms either attached to other permitted structures or constructed separately. (See additional requirements of this section.)
 - (8) Residential occupancy by domestic employees employed on the premises, provided that the occupancy occurs within the primary building and that no alteration is made to the unit to create a room or rooms not accessible from the interior.
 - (9) Foster family care where care is provided for children unrelated to the residents by blood or adoption; provided that no sign shall be displayed, and that care is provided for no more than five (5) such children.
 - (10) Child care home, as defined in section 731-102 and as regulated by IC 12-17.2 and rules adopted by the Division of Family and Children or the Fire Prevention and Building Safety Commission of the State of Indiana. For purposes of this chapter, a child care home shall not be considered a home occupation.
 - (11) Storage or parking of recreational vehicles. (See additional requirements of this section.)
 - (12) Game courts, including tennis courts and basketball courts. (See additional requirements of this section.)
 - (13) Common recreation facilities, provided such facilities are dedicated to the public and accepted, owned by a homeowners' association, owned by the project owners, or are in similar type of control; and, provided that the facilities are either open to the public (if dedicated to the public and accepted) or to all the residents in the association or the project.
 - (14) Satellite dish antennas. (See additional requirements of this section).
- (b) *Accessory use development standards.* Accessory uses in all dwelling districts shall comply with the following requirements:
- (1) General accessory use requirements. Accessory uses:
 - a. Shall be customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot.

- b. Shall be operated and maintained under the same ownership and on the same building lot as the primary use.
- c. Shall be subordinate in area, bulk, extent, and purpose to the primary use of the building served. The height of an accessory building or structure shall be less than or equal to that of the primary structure. The total square footage of all accessory buildings on a building lot shall not exceed seventy-five (75) percent of the main floor area of the primary building, except that a detached garage, which is the only accessory building on the lot, may equal the maximum dimensions of twenty-four (24) by thirty (30) feet provided that the total square footage of the garage is less than or equal to the main floor area of the primary building.
- d. Unless otherwise specified in this ordinance, detached accessory buildings:
 - 1. Shall not be located closer to any front or side lot line than the required minimum front and side yard setbacks of the dwelling district, or, in the case of a front yard, the established front yard setback on the lot, whichever is greater;
 - 2. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II and D-8 dwelling districts shall not be located closer to any rear lot line than five (5) feet;
 - 3. Shall comply with the minimum side yard requirements of the district independently of the side yards established by the primary building.
 - 4. Shall not be permitted on a lot prior to the erection of the primary building.
- e. Shall not encroach upon, as the primary building shall not encroach upon, any platted easement.
- f. Patios, decks, terraces having a horizontal area within eighteen (18) inches of grade level shall not require an Improvement Location Permit.

(2) Appurtenances.

- a. Such appurtenant features as walks, drainage installations, mailboxes, lamp posts, bird baths, air conditioning units and structures of similar and comparable nature, shall be permitted on any lot.
Provided, however, the front yard of any lot may contain only enough paving, gravel or similar material sufficient for reasonable access to and from the off-street parking area. The remaining front yard shall be landscaped in grass, shrubbery, trees or hedge, or in combination with other similar and suitable vegetative ground cover materials.
- b. The growing of vegetables, grasses, fruits, flowers, shrubs, vines, and trees shall be permitted on any lot, provided such operations are not for profit. In the D-A dwelling district, the growing of such items may be for profit.
- 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 731-102 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 (2) 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 731-102, 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 731-102, Diagram H).
 - iv. Fence posts may exceed the maximum height by one (1) foot (See section 731-102, 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 (8) feet (See section 731-102, 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.
- (3) Additional requirements for swimming pools, hot tubs and similar structures. The following additional requirements shall apply to swimming pools or hot tubs:

- a. A swimming pool or hot tub shall not be located in or on any front yard or closer to any side lot line than the required minimum side yard setbacks of the dwelling district or located closer to any rear lot line than five (5) feet.
- b. ~~The pool or tub area shall be enclosed by either: 1. a fence or other structural barrier, which shall be adequate to prevent persons, children or animals from danger or harm, and shall be equipped with a self-closing, self-latching gate; or 2. a safety pool cover, as defined by, and meeting the specifications of, IAC 20-4-27(c). If a structural barrier is utilized, such structural barrier shall be a chain link, ornamental, or solid fence or wall, and:~~
- ~~1. If erected on grade, the fence shall be not less than five (5) feet in height; or,~~
 - ~~2. If erected on the deck of an aboveground pool or hot tub, the fence or structural barrier on the deck shall be not less than thirty-six (36) inches in height.~~

The pool or tub area shall be enclosed by either a:
safety pool cover, as defined by, and meeting the specifications of 675 IAC 20-4-27(c); or
fence or other structural barrier, which shall be adequate to prevent persons, children or animals from danger or harm, and shall be equipped with a self-closing, self-latching gate. Said fence or structural barrier shall be a chain link fence, ornamental fence, solid fence, solid wall, or combination thereof. The height of said fence or structural barrier shall be no less than: five (5) feet if fence or structural barrier is erected on grade; or, thirty-six (36) inches if fence or structural barrier is erected on the raised deck or top of the pool wall of an aboveground pool or hot tub.

In no instance, shall the combined height of fence or structural barrier and pool be higher than ten (10) feet.

- c. ~~Screening and landscaping shall be provided and maintained between the pool or hot tub and all lot lines from which the pool or tub area is visible according to the following requirements:~~
- ~~1. Screening shall include any combination of an earthen mound, solid hedge, wall or fence of ornamental block, stone, brick, or solid wood.~~
 - ~~2. Effective screening height shall be at least five (5) feet, as measured from grade level, and so constructed or planted 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 three (3) feet above grade and the incline shall not exceed a three-to-one (3:1) ratio, with the exception of previously existing natural outcroppings.~~
- cd. Abandoned or unused swimming pools or hot tubs, situated on premises which are not occupied for periods of thirty (30) days or more, shall be drained or equipped with a cover adequate to prevent persons, children or animals from danger or harm.
- de. No pool or hot tub shall be erected or constructed unless adequate distance from overhead electrical wires is provided in accordance with the National Safety Code, and the National Electrical Code, current editions, and until an Improvement Location Permit has been obtained.
- ef. All pools or hot tubs, which are less than eighteen (18) inches above grade level, shall not be considered as part of the building area, as defined in section 731-102.

- (4) Additional requirements for underground storerooms. The following additional requirements shall apply to all underground storerooms:
- a. An underground storeroom shall not be located in or on any front yard or closer to any side or rear lot line than the required minimum side and rear yard setbacks of the dwelling district.
 - b. No underground storeroom shall be erected or constructed until an Improvement Location Permit has been obtained.
- (5) Additional requirements for recreational vehicles. The following additional requirements shall apply to the parking or storage of recreational vehicles:
- a. Recreational vehicles may be parked or stored inside permitted buildings or outside in such a manner that no part of any such vehicle shall project into any required side or rear yard as established by the ordinance. Provided further, no part of any such vehicle shall be parked or stored outside in the front yard of the lot other than on the hard-surfaced area of the driveway or interior access drive.
 - b. Not more than two (2) recreational vehicles shall be permitted to be parked or stored in the open on the same building lot at any one time.
 - c. Parked or stored recreational vehicles shall not be occupied or used for living, sleeping or housekeeping purposes in any dwelling district.
- (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 731-102.
 - 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 731-219(b)(2)c. Fences which are components of game courts shall not exceed ten (10) feet in height.
- (7) Additional requirements for porches, patios, decks and canopies. The following additional requirements shall apply to porches, patios, decks and canopies:
- a. Porches, patios and decks, with the exception of attached open railings, shall not be constructed or erected higher than eighteen (18) inches above grade level at any point without having first obtained an Improvement Location Permit.
 - b. Porches and patios shall be located no closer than four (4) feet from any property line.
 - c. No permanent roof, canopy or similar permanent structure shall be built or established to extend over any porch, patio or deck, other than an eave or cornice overhang from the primary structure, unless the roof or canopy complies with the setback requirements of the dwelling district.

- d. Porches, patios and decks eighteen (18) inches in height, or over, above grade level shall comply with all front and side yard setback requirements of the district and with the rear yard setback requirements for accessory buildings; except, however, open stairs and railings, attached to these structures may encroach into required yards.

(8) Additional requirements for antennas.

- a. Statement of purpose. The regulations of this subsection are intended to allow antennas to be located in all dwelling districts in a manner that:
 1. Does not unreasonably delay or prevent the installation, maintenance or use of the antenna;
 2. Does not unreasonably increase the cost of installation, maintenance or use; or
 3. Preclude reception of an acceptable quality signal.
- b. Objectives. The regulations of this subsection are intended to accomplish the following objectives:
 1. Health and safety: The regulations protect the public and safety to the degree that the improper installation of antennas can endanger the lives and property of persons on the property or surrounding property if they collapse or are felled by high winds or ice.
 2. General welfare/aesthetic: The regulations limit visual blight by sensitive placement of antennas, as the injudicious location of such antennas, including guy wires, poles, masts, cables and other appurtenant devices can create visual blight offensive to those who reside, work and travel in the city and contrary to the city's comprehensive plan. Further, these regulations are intended to meet these objectives without unnecessarily burdening the federal interests in ensuring access to satellite services and in promoting fair and effective competition among competing communications service providers.
- c. Requirements. The requirements of this subsection shall apply to any antenna which is greater than one (1) meter/39.37 inches in diameter or diagonal measurement.
 1. Installations shall comply with all front, side and rear yard setback requirements specified within the district; except, however, no installation shall be located in such a manner that any part of any such antenna shall project into the front yard as established by the building line of the existing primary building.
 2. The maximum height for a ground-mounted antenna shall not exceed the maximum height of an accessory structure permitted by that district (see section 731-219(b)(1)).
 3. In any dwelling district, roof-mounted antennas may be permitted, subject to demonstration by the applicant that compliance with section 731-219(b)(8)c.a. and b. of this ordinance would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the control of the applicant.
 4. The height of the proposed installation does not exceed the maximum height restriction imposed upon primary uses within the district.
 5. All applications for Structural Permits shall include certification by a registered engineer that the proposed installation complies with those standards listed in Section 623.0 and 624.0 of the BOCA Basic Building Code. Furthermore, written

documentation of such compliance, including load distribution within the building's support structure, shall be furnished.

6. All roof-mounted installations shall be contained within the area of the roof.
- d. Limitation on enforcement. No requirement contained in this subsection, section 731-219(b)(8), shall be enforced to the extent it:
 1. Unreasonably delays or prevents installation, maintenance or use of an antenna; or
 2. Unreasonably increases the cost of installation, maintenance, or use of an antenna; or
 3. Precludes reception of an acceptable quality signal by an antenna.

(c) Nonpermitted accessory use activities. No accessory use which is not specifically permitted under section 731-219(a) shall be permitted as an accessory use in any dwelling district. In addition, the following activities are strictly prohibited in all dwelling districts:

- (1) Dismantling, repairing or restoring of ~~motor~~ vehicles in dwelling districts: No person shall dismantle, repair, restore or otherwise perform any work on any ~~motor~~ vehicle, machine, motor, or similar device not owned or leased by that person or a member of that person's family, on any property in a dwelling district. In addition, any work performed shall be:
 - a. Incidental to a permitted use; and,
 - b. Completely within a garage or carport; or,
 - c. Completely within an area wholly enclosed from the view of surrounding properties and rights-of-way by a solid structural barrier (either a wall or fence of ornamental block, brick, wood, or combination thereof) of six (6) feet in height.
- (2) Storing of inoperable ~~motor~~ vehicles in dwelling districts: ~~no motor inoperable vehicle, machine, motor, or similar device from which any part material to the operation of the vehicle has been removed, or which is inoperable for any reason,~~ shall be stored, maintained or kept on any property in a dwelling district unless such device is:
 - a. Owned or leased by the resident of the property on which it is stored or by a member of that person's family; and further is,
 - b. Completely within an accessory structure.
- (3) Storing of commercial motor vehicles in dwelling districts: No commercial motor vehicle or trailer shall be parked, stored, maintained or kept on any property in a dwelling district unless:
 - a. The vehicle has a maximum load capacity of three-quarters (3/4) of a ton or less; and
 1. Serves as the sole vehicular transportation of a resident of the property upon which it is parked, stored, maintained or kept; or
 2. Such vehicle is within a garage or carport which complies with all the standards and regulations of this ordinance.
Commercial motor vehicles that are in the course of making normal and reasonable service calls are exempt from this provision.

SECTION 6. Section 732-217(b) of the "Revised Code of the Consolidated City and County," regarding the definition of an inoperable vehicle in the commercial zoning districts, 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. 732-217(b) Definitions. [Not all of the definitions from this section of the commercial zoning ordinance has been included, just the definition of Inoperable vehicle.]

~~Inoperable vehicle. A motor vehicle from which there has been removed the engine, transmission or differential or that is otherwise partially dismantled or mechanically inoperable, or any motor vehicle which cannot be driven on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.~~

Inoperable vehicle means:

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

SECTION 7. 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 8. 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.

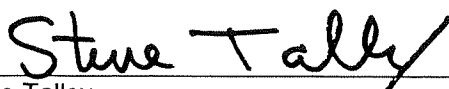
SECTION 9. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this 11th day of July, 2005, at 8:56 p.m.

ATTEST:



Jean Ann Milharcic
Clerk, City-County Council




Steve Talley
President, City-County Council

Presented by me to the Mayor this 14th day of July, 2005, at 10:00 a.m.



Jean Ann Milharcic
Clerk, City-County Council

Approved and signed by me this 21st day of July, 2005.



Bart Peterson, Mayor

