

CHAPTER 156: ZONING CODE

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GENERAL PROVISIONS

§ 156.001 TITLE.

This chapter may be known and may be cited as the “City Zoning Code.”
(‘86 Code, § 36-7-4-600, § 2) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.002 PURPOSE.

This chapter is adopted for the purpose of dividing the city into zones, or districts, restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures, and land for trade, industry, residence and other specified uses; to regulate the intensity of the use of lot areas, and to regulate and determine the area of open spaces surrounding such buildings; to establish building lines and the location of buildings designed for specified industrial, business, residential and other uses within such areas; to fix standards to which buildings or structures shall conform therein; to prohibit uses, buildings or structures incompatible with the character of such districts, respectively; to prevent additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder; to limit congestion in the public streets by providing for the off-street parking and loading and unloading of vehicles; providing for the gradual elimination of nonconforming use of land, buildings and structures; and prescribing penalties for the violation of the chapter; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to conserve the taxable value of land and buildings throughout the city; and to promote the public health, safety, and general welfare.

(‘86 Code, § 36-7-4-600, § 1) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A building or structure, on the same lot with, and subordinate to a principal building, occupied or devoted exclusively to an accessory use. Where an accessory building is attached to a principal building by a breezeway, roof, wall or the like, such accessory building shall be considered part of the principal building.

ACCESSORY USE. A use naturally and normally incident and subordinate to the principal and primary use upon any premises. More particularly, but not by way of limitation, an accessory use shall be construed to include a private swimming pool, driveway, private road, alley, railroad spur, side track or switch, or other facility for ingress and egress by pedestrians and vehicles.

AIRCRAFT. Any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

AIRPORT. The Salem Municipal Airport, together with all of its structures, services, and improvements.

AIRPORT BOARD OF AVIATION COMMISSIONERS. The Salem, Indiana Board of Aviation Commissioners.

AIRPORT BOUNDARY. The property line existing in fee simple and depicted on the Airport Facilities Plan.

AIRPORT ELEVATION. The highest point of an airport's usable landing area measured in feet from mean sea level, and established to be 816 feet above mean sea level (MSL).

AIRPORT HAZARD. Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the ascent, descent or glide path of aircraft in landing or takeoff at the airport or is otherwise hazardous to such landing or takeoff of aircraft.

ALTERATION OF BUILDING. Any change in the supporting members of a building, such as bearing walls, columns, beams, girders, interior partitions, as well as any change in doors or windows, or any addition to or diminution of a building.

APARTMENT. One or more dwelling rooms, with private bath and kitchen facilities, comprising an independent self-contained dwelling unit in a larger building.

APPROACH, HORIZONTAL, AND CONICAL ZONES. These zones are set forth in § 156.090.

ATTIC. The open non-habitable space between the ceiling beams of a top habitable story and the roof rafters of any building.

BASEMENT. An interior space or a portion of any interior space, having a floor level below the highest outside elevation of ground at the foundation wall of the structure in which it is contained.

BOARDING HOUSE. Any dwelling in which more than three persons either individually or as families are housed or lodged for hire, with or without meals. A rooming house or a furnished room house shall be deemed a **BOARDING HOUSE**.

BUILDING. Includes the word **PLOT**.

CANOPY (MARQUEE). A rooflike shelter without sides, permanently affixed to the wall of a building, and providing overhead protection from the weather at an entrance to the building, which shall be construed to be a part of the building to which it is affixed. No canopy or marquee shall extend past any setback line affecting the building to which it is affixed. This prohibition shall not apply to retractable types of awnings.

CHANGE OF USE. A change from the use permitted in one Zone District to a use permitted in another Zone District, any removal of a building from one location to another, or the conversion of any building, or any part thereof, from a use permitted in one Zone District to a use permitted in another Zone District.

COMMON OWNERSHIP. Ownership of two or more contiguous lots of real property by one person or by two or more persons owning such property in any form of joint ownership.

DWELLING UNIT. A unit comprising living accommodations designed and used for occupancy by only one family.

EMPLOYEE. A person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

ESTABLISHMENT. Means and includes any of the following:

- (1) The opening or commencement of any such business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this section;
- (3) The addition of any of the sexually oriented businesses defined in this section to any other existing sexually oriented business; or
- (4) The relocation of any such sexually oriented business.

FAMILY. Up to three persons unrelated by blood, marriage or adoption, or any number of individuals related by blood, marriage or adoption living privately together as a single housekeeping unit and using certain rooms and cooking facilities in common, but not including the residents of any apartment, hotel, or of a boarding house or lodging house serving more than two paying guests.

FARM. Any parcel of land containing at least ten acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products.

FENCE. A structure of uniform construction typically used by owners or occupiers of real estate for the enclosure of property. A fence shall be considered a structure as that term is used throughout this chapter.

FLOOR AREA. The aggregate area of all floors in a building enclosed by an exterior wall, excluding, however, attic and basement floors, open porches, breezeways and garages.

HEIGHT (AIRPORT OVERLAY DISTRICT). The purpose of determining the height limits in the Airport Overlay District, the datum shall be mean sea level elevation unless otherwise specified.

HEIGHT OF BUILDING. The distance from the highest roof point to the average elevation of the ground level at the foundation wall of the building.

HELIPORT. Any airport designed and designated for the exclusive use of rotary wing and vertical takeoff and landing (VTOL) aircraft.

INSTITUTIONAL USES. Any building or open area used only by an educational, religious, medical, charitable, philanthropic, or other essentially nonprofit organization, either public or private.

LARGER THAN UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

LOT. For zoning purposes, as covered by this chapter, a **LOT** is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, complete lots of record, or portions of record;

and

(4) A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements of corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under **YARD** in this section.

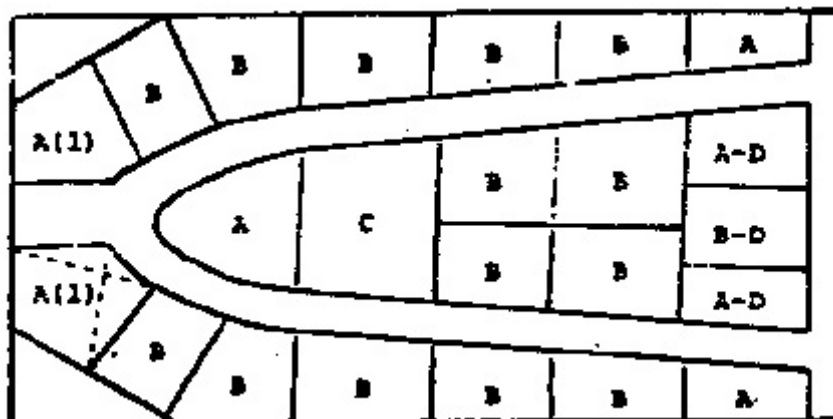
LOT MEASUREMENTS.

(1) The depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(2) The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided however, that the width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the 80% requirement shall not apply.

LOT TYPES.

(1) The diagram which follows illustrates, terminology used in this chapter with reference to corner lots, interior lots, reversed frontage lots and through lots.



(2) In the diagram above.

- A = **CORNER LOT**, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135°. See lots marked A(1) in diagram.
- B = **INTERIOR LOT**, defined as a lot other than a corner lot with only one frontage on a street other than an alley.
- C = **THROUGH LOT**, defined as a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as “double frontage” lots.
- D = **REVERSED FRONTAGE LOT** defined as a lot to which the frontage is at right angles or approximately right angles to the general pattern in the area involved. A reversed front age lot may also be a corner lot or an interior lot (see A-D and B-D in the diagram).

MOBILE HOME. A vehicle or other portable structure more than 30 feet in length that is designed to move on the highway and designed or used as a dwelling, as manufactured.

MOBILE HOME, COMPACT HOME (DOUBLE WIDE). Vehicles or other portable structures more than 30 feet in length that are designed to move on the highway and designed or used as a dwelling as manufactured after assembly.

MOBILE HOME PARK. An area of land of at least five acres upon which a minimum of two mobile home spaces are located.

MOBILE HOME SUBDIVISION. A residential subdivision designed specifically for and occupied only by mobile homes and compact homes, in which the homes and land are owned by the occupants.

NON-CONFORMING USE. A use which is being lawfully exercised within a structure or on land on the effective date of this chapter, or any amendment thereto, and which does not conform with the regulations and requirements of the Zone District in which it is located after the adoption of this chapter or that amendment.

NON-CONFORMING USE (AIRPORT OVERLAY DISTRICT). Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of the Airport Overlay District standards.

NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

NUDITY or STATE OF NUDITY.

(1) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or

(2) A state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

OBSTRUCTION (AIRPORT OVERLAY DISTRICT). Any structure, growth, or other object, including a mobile object, which exceeds a limiting height in the Airport Overlay District.

OFF-PREMISE SIGN. A sign (including billboards) or display which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed. All off-premise signs shall comply with state and local codes as they apply.

ON-PREMISE SIGN. Any sign which directs attention to a business, building, activity, or service, manufactured, sold or offered upon the premises as the primary use(s) where such sign is located. All on-premise signs shall comply with state and local codes as they apply.

OPERATOR. The owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

PARKING SPACE, OFF-STREET. An off-street parking space shall comprise not less than 200 square feet for parking stalls plus necessary maneuvering space. Space for maneuvering incidental to parking or unparking shall not encroach upon any public way. Every off-street parking space shall be accessible from a public way.

PERMITTED or LICENSED PREMISES. Any premises that requires a license and/or permit and that is classified as a sexually oriented business.

PERMITTEE and/or LICENSEE. A person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

PERSON. An individual, proprietorship, partnership, corporation, association, or other legal entity.

PERSON (AIRPORT OVERLAY DISTRICT). An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes any trustee, receiver, assignee, or a similar representative thereof.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure, utilizing an Instrument Landing System (ILS) or a precision approach using the Global Positioning System (GPS) Wide Area Augmentation System (WAAS) with Localizer like with Precision Vertical guidance (LPV). It also means a runway for which a precision approach system is planned and is so indicated on approved airport layout plan or any other planning document.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in § 156.090. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

PRINCIPAL USE OF STRUCTURE . A principal use is the primary or predominant use of any lot. A principal structure is one devoted to the principal use.

PRIVATE GARAGE. A detached accessory building, or a portion of a principal building used primarily for the storage of motor vehicles owned or used by the occupant of the principal building to which the garage is an accessory.

PUBLIC BUILDING. Any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

PUBLIC GARAGE or GASOLINE SERVICE STATION. Any building, structure, lot or land in or upon which a business, service or industry involving the storage, maintenance, washing, or servicing, and storage in connection therewith, of motor vehicles is maintained, conducted, operated or rendered.

PUBLIC PARK or RECREATION AREA. Public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities.

PUBLIC UTILITY FACILITIES. Telephone, telegraph, telecommunication, radio, television, cable television, water, gas and electric systems and the equipment necessary to operate such systems including lines, poles, pipes, mains, valves, towers, tanks, antennae, transfers, pumping stations and other structures or equipment needed for efficient operation of the systems that are being operated and conducted for the service, convenience, necessity, health, and welfare of the general public, whether owned by any firm or creature of the local, state, or federal government or by any privately-owned corporation regulated by the State Public Service Commission or the Federal Communications Commission.

RECREATIONAL VEHICLE. A temporary dwelling for travel, recreation and vacation use including, but not limited to:

(1) ***TRAVEL TRAILER.*** A vehicle, identified by the manufacturer as a travel trailer, built on a chassis eight feet or less wide and 30 feet or less long and designed to move on the highway.

(1) ***PICK-UP COACH.*** A structure designed to be mounted on a truck chassis or cut-down car.

(3) ***MOTOR HOME.*** A self-propelled vehicle with a dwelling constructed as an integral part of the vehicle.

(4) ***CAMPING TRAILER.*** A canvas, folding structure, built on a chassis with wheels and designed to move along the highway.

(5) ***TENT.*** A collapsible shelter of canvas or other material stretched and sustained by poles and used for camping outdoors.

RECREATIONAL VEHICLE PARK. An area of land used for the parking of two or more recreational vehicles.

RELIGIOUS INSTITUTION. Any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

RESIDENTIAL DISTRICT or USE. Any real estate that is zoned for residential use, whether R-1 (Single-Family Residence), R-2 (Single-Family Residence) or R-3 (Multiple-Family Residence), or any tract of real estate upon which a mobile home park, mobile home subdivision or recreational vehicle park as defined in the this section is located.

RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

SCHOOL. Any public or private educational facility including but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. **SCHOOL** includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

SEXUALLY ORIENTED BUSINESS. An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theatre, adult theatre, massage parlor, sexual encounter establishment, escort agency or semi-nude model studio.

SEXUALLY ORIENTED BUSINESSES. Those businesses defined as follows:

(1) **ADULT ARCADE.** An establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(2) **ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE.** A commercial establishment which has a significant or substantial portion of its stock-in-trade or derives 25% or more of its revenues to the sale, rental for any form of consideration, of any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(b) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

(c) An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

(d) Regardless of the percentage of revenues from adult materials defined herein, any business which devotes any portion of its interior business space or advertising, for any form of consideration or viewing of any of the adult materials defined herein shall be considered to be an **ADULT BOOKSTORE**, **ADULT NOVELTY STORE** or **ADULT VIDEO STORE** as defined by and governed by this section.

(3) **ADULT CABARET.** A nightclub, bar, restaurant “bottle club”, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

(a) Persons who appear semi-nude or in a state of semi-nudity.

(b) Live performances which are characterized by the exposure of specified anatomical area or by pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(4) **ADULT MOTEL.** A motel, hotel or similar commercial establishment which:

(a) Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical area and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(b) Offers a sleeping room for rent for a period of time less than ten hours; or

(c) Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten hours.

(5) **ADULT MOTION PICTURE THEATER.** A commercial establishment where films, motion pictures, videocassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

(6) **ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of semi-nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

(7) **ESCORT.** A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(8) **ESCORT AGENCY.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(9) **MASSAGE PARLOR.** Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with specified sexual activities or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

(10) **SEMI-NUDE MODEL STUDIO.** Any place where a person, who regularly appears in a state of semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(11) **SEXUAL ENCOUNTER ESTABLISHMENT.** A business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purposes of specified sexual activities when one or more of the persons is seminude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SEMI-NUDE. A state of dress in which clothing covers no more than the genitals, pubic region, and areolas of the female breast, as well as portions of the body covered by supporting straps or devices.

SINGLE OWNERSHIP. As distinguished from **COMMON OWNERSHIP** as defined in this section, **SINGLE OWNERSHIP** shall be ownership of a single lot by one person, or jointly by two or more persons, whether as joint tenants, tenants by the entirety, or tenants in common.

SIGN. Any structure or part thereof attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, announcement direction or advertisement.

SPECIAL EXCEPTION. A special exception is a use that would not be appropriate generally or without restriction throughout the district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such district as special exceptions, if specific provision for such special exceptions is made in this chapter.

SPECIFIED ANATOMICAL AREAS. As used in this division means and includes any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolas; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. As used in this chapter, means and includes any of the following:

(1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Human genitals in a state of sexual stimulation, arousal or tumescence;

(5) Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4).

STREET LINE. The right-of-way line of a street.

STRUCTURE (AIRPORT OVERLAY DISTRICT). An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

SUBSTANTIAL ENLARGEMENT OF SEXUALLY ORIENTED BUSINESS. Increase in the floor areas occupied by the business by more than 15% as the floor areas exist on November 9, 1993.

TOURIST HOME. A building (except a hotel or motel) containing not over nine guest rooms, where for compensation, lodging, meals or both are provided for transient guests. A ***TOURIST HOME*** is not considered an accessory use or a home occupation.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS. Any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;

(3) The establishment of a trust, gift or other similar legal devisee which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

TREE. Any object of natural growth.

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

VARIANCE. A variance is a relaxation of the terms of this chapter where such variance shall not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship.

VEHICLE IMPOUND LOT. Any place where automobiles, or other vehicles not being operated, are held by law enforcement authority, motor vehicle towing contractor, or other authority or individual for confiscation, evidence, bond, disposition, or storage, including storage awaiting insurance adjustment or transport to a repair shop.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service approved military airport layout plan, or by an planning document submitted to the FAA by competent authority.

YARD. A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

YARD, FRONT. A yard extending between the side lot lines across the front of a lot.

(1) In any required front yard, no fences or walls shall be permitted which materially impede vision across such yard above the height of 30 inches, and no hedges or other vegetation shall be permitted which materially impede vision across such yard between the heights of 30 inches and ten feet.

(2) In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

(3) In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided and second front yard of half the depth required generally for front yards in the zone shall be provided on the other frontage.

(4) In case of corner lots with more than two frontages, the Zoning Administrator shall determine the front yard requirements, subject to the following limitations.

(a) At least one front yard shall be provided having the full depth required generally in the zone;

(b) No other front yard on such lot shall have less than half the full depth required generally.

(5) Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

YARD, JUNK. A place, usual by outdoors where waste or discarded used property other than organic matter is accumulated and is or may be salvaged for re-use or residue, including but not limited to, one or more unlicensed or inoperable motor vehicles, or farm machinery or equipment of any kind.

YARD, REAR.

(1) A yard extending across the rear of the lot between inner side yard lines. In the case of through lot and reversed frontage corner lots, there shall be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half-depth front yard.

(2) Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear yard line of a required rear yard shall be parallel to the straight line so established.

YARD, SIDE. A yard extending from the rear line of the required front yard to the rear lot line.

(1) In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there shall be only one side yard, adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the full and half-depth front yards have been established shall be considered to be side yards.

(2) Width of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

ZONES. The zones established in the Airport Overlay District are imaginary horizontal or inclined surfaces in compliance with Federal Aviation Regulation, the Salem Comprehensive Plan and I.C. 8-21-10 as amended by the state.

(‘86 Code, § 36-7-4-600, § 3) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1173, passed 12-14-04; Am. Ord. 1145, passed 4-13-04; Am. Ord. 1181, passed 3-8-05; Am. Ord. 1468, passed 9-9-13; Am. Ord. 1517, passed 12-8-14; Am. Ord. 1526, passed 6-8-15)

GENERAL USE REGULATIONS**§ 156.020 STREET, ALLEY AND RAILROAD RIGHTS-OF-WAY.**

All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, or railroad rights-of-way. Where the center line of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

('86 Code, § 36-7-4-600, § 5(1)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.021 PURPOSE OF BUILDINGS OR STRUCTURES.

No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which the building or land is located.

('86 Code, § 36-7-4-600, § 5(2)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.022 HEIGHT LIMITS OF BUILDINGS AND STRUCTURES.

No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is located except that penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, radio and television aerials or antennas, wireless masts, water tanks, or similar structures may be erected above the height limits herein prescribed. No such structure may be erected to exceed by more than 25 feet the height limits of the district in which it is located, except that aerials or antennas designed to aid home television reception may be erected to a

height not to exceed 60 feet from the ground level, if that aerial or antenna is attached to the building or erected in the rear yard area.

(‘86 Code, § 36-7-4-600, § 5(3)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.023 AREA AND YARD REQUIREMENTS.

(A) No building or structure other than a building for conditional use shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located. (‘86 Code, § 36-7-4-600, § 5(4))

(B) No space which for the purpose of a building or dwelling group has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required by this chapter, may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court, or other open space requirement of or for any other building.

(1) An open terrace, but not including a roofed over porch or terrace, may occupy a front yard provided the unoccupied portion of the front yard has a depth of not less than 15 feet. A one story bay window may project into a front yard not more than three feet. Overhanging eaves, including gutters, may project over the minimum required side yard not more than 18 inches.

(2) The minimum yards or other open spaces, including lot areas per family required by this chapter for each and every building existing on March 3, 1969, or erected after that date, shall not be encroached upon or considered as yard or open space requirements for any other building. (‘86 Code, § 36-7-4-600, § 5(5))
(Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.024 BUILDINGS TO BE LOCATED ON LOTS.

(A) Every building erected after March 3, 1969 or structurally altered to provide dwelling units shall be located on a lot as herein defined. In no case shall there be more than one such building on one lot unless otherwise provided in this chapter. (‘86 Code, § 36-7-4-600, § 5(6))

(B) No residential structure shall be erected upon the rear of a lot or upon a lot with another dwelling; except that in a two story garage with living quarters upon the second floor, such quarters may be occupied by a servant (and his family) of the family occupying the main structure. There may also be constructed a guest house (without kitchen) or rooms for guests within an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the main structure and not for permanent occupancy by others as a housekeeping unit. (‘86 Code, § 36-7-4-600, § 5(11))

(Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.025 EXISTING LOTS OF RECORD.

Any separate tract, the title of which was of record on March 3, 1969, that does not meet the requirements of this chapter for yards, courts, or other areas of open space may be utilized for single residence purposes if the requirements for such yard or court (or lot) area, width, depth or open space is within 75% of that required by the terms of this chapter. The purpose of this provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided.

('86 Code, § 36-7-4-600, § 5(7)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.026 STREET ACCESS REQUIRED.

No building shall be constructed or erected upon a lot, or parcel of land which does not abut upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of 25 feet unless an easement of lesser width was of record prior to March 3, 1969.

('86 Code, § 36-7-4-600, § 5(8)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.027 VISIBILITY OBSTRUCTION.

No wall, fence, or shrubbery shall be erected, maintained or planted on any lot which unreasonably obstructs or interferes with traffic visibility on a curve or at any street intersection.

('86 Code, § 36-7-4-600, § 5(9)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.028 DWELLINGS PROHIBITED IN INDUSTRIAL DISTRICTS.

A dwelling shall not be erected in the I-1 and 1-2 Industrial Districts, however, the sleeping quarters of a watchperson or caretaker are permitted.

('86 Code, § 36-7-4-600, § 5(10)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.029 EXEMPTION FOR BUILDINGS BEGUN PRIOR TO CERTAIN DATE.

Nothing in this chapter shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to March 3, 1969 and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed by March 3, 1971.

('86 Code, § 36-7-4-600, § 5(12)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.030 DESIGNATED PUBLIC AREAS.

An area indicated on the official “zoning map” as a public park or recreation area, public utility area, cemetery, public school site, or semipublic open space, shall not be used for any other purpose. When the use of the area is discontinued, it shall automatically be zoned “R-1” one-family district, until otherwise zoned.

(‘86 Code, § 36-7-4-600, § 5(13)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.031 AREAS ANNEXED TO CITY.

Any area annexed to the city that has not been previously zoned, shall, upon such annexation, be automatically zoned “R-1” one-family district, until otherwise zoned.

(‘86 Code, § 36-7-4-600, § 5(14)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.032 CONFORMANCE TO TABLE OF LOT, YARD, LOT COVERAGE AND HEIGHT REQUIREMENTS.

There is attached to this chapter, and incorporated by reference herein, a table of lot, yard, lot coverage and height requirements. All uses of real estate hereafter set forth in this chapter shall be subject to the regulations and provisions of such table.

(‘86 Code, § 36-7-4-600, § 5(15)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1226, passed 8-8-06)

Cross-reference:

Table of lot, yard, lot coverage, and height requirements, see the Appendix to Chapter 156

§ 156.033 NONCONFORMING USES.

(A) *Non-conforming uses of land.* Where at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this chapter.

(2) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(3) If any such non-conforming use of land is discontinued for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(B) *Non-conforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its non-conformity;
- (2) Should such structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction as determined by the Zoning Enforcement Officer, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.
- (4) Any structure, or structure and land in combination, on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed;

(C) *Non-conforming uses of structures.* If a lawful use of a structure or of structure and premises in combination exists at the effective date of adoption or amendment of this chapter that would not be allowed in the zone under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the zone in which it is located, except dwellings, shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located;
- (2) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for use at the time of adoption or amendment of this chapter but no such use shall be extended to occupy any land outside such building;
- (3) If no structural alterations are made, any non-conforming use of structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this chapter.
- (4) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located;

(5) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(D) *Repairs and maintenance.* Ordinary repairs or repair and replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10% of the current replacement value of the building for the repairs performed in any 12 consecutive months. The cubic content of the building shall not be increased by making repairs or maintaining the same. Provided however, nothing in this chapter shall be deemed to prevent the strengthening or the restoring to a safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, and upon the order of such official.

('86 Code, § 36-7-4-600, § 16) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.034 USES UNDER SPECIAL EXCEPTIONS.

Any use for which a special exception is permitted as set forth in this chapter, shall not be deemed to be a nonconforming use, but shall without further action be deemed to be a conforming use under this chapter.

('86 Code, § 36-7-4-600, § 17) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.035 FENCES.

(A) No fence shall be placed or erected over any utility easement except for lot line fences. Lot line fences, however, shall be subject to the paramount right of the utility or the city to install, repair, maintain, or replace utility facilities or structures located within the easement. Fences located within easements are subject to removal by persons properly authorized to use and maintain the easement. The property owner subject to the easement upon which any such line fence is built shall not be compensated for the value of the fence so removed. The cost of replacement or repair of any fence located within a utility easement that is removed by persons properly authorized to use and maintain the easement shall be at the sole expense of the property owner.

(B) A fence located within a residential zone shall not exceed seven feet in height. The fence may be constructed of wood, painted rustproof metal, vinyl, or other commercially produced synthetic fencing material so long as it is durable, uniform and attractive. No fence may be constructed, maintained, or used in any condition which is detrimental of the property of others or which causes or tends to cause substantial diminution in the value of an adjoining property owner.

(Ord. 1181, passed 3-8-05)

DISTRICT REGULATIONS**§ 156.050 DIVISION OF CITY INTO DISTRICTS; BOUNDARIES.**

(A) For the purpose of this chapter, the city and a contiguous two-mile radius surrounding its corporate boundaries, are hereby divided into 11 Zone Districts as follows:

Resident District	RR
Resident District	R-1
Resident District	R-2
Resident District	R-3
General Business District	B-1
Central Business District	CB
Highway Business District	B-2
Light Industrial District	I-1
Heavy Industrial District	I-2
Planned Development District	PD
Flood Plain District	FP

(B) The boundaries of designated districts are shown upon the map made a part of this chapter which map is designated as the city zoning map. The zoning map shall be incorporated by reference into this chapter, and is on file in the office of the City Clerk/Treasurer for public inspection. All notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the zoning map and all such notations, references, and other information shown thereon were fully set forth or described herein.

('86 Code, § 36-7-4-600, § 4) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1226, passed 8-8-06)

§ 156.051 RURAL RESIDENCE DISTRICT; RR.

The following regulations shall apply in this district:

(A) The RR zoned district is intended to be used for existing and developing residential districts and agricultural areas. The following uses are permitted:

(1) One-family detached dwellings;

(2) Agriculture, provided that no poultry or livestock, except domestic pets, shall be housed within 100 feet of the front boundary of the property, EXCEPTING that confined feeding operations, as defined in IC 13-11-2-40 shall be subject to the provisions of division (A)(10) below, and FURTHER EXCEPTING that concentrated animal feeding operations as defined in 327 IAC 5-4 and 327 IAC 15-15 shall be subject to the provisions of division (A)(11) below;

(3) Parks and playgrounds;

(4) Public structures and uses in accord with the intent of this district;

(5) Institutions of an educational, religious, medical, charitable, or philanthropic nature;

(6) Accessory uses and structures;

(7) Mobile home when located on lot which adjoins a public thoroughfare and in accordance with the requirements of Supplementary District Regulations;

(8) Compact homes (double wide mobile homes) in accordance with the requirements of Supplementary District Regulations;

(9) Aircraft hangars located on real estate adjacent or with access rights to an airport owned by an agency of either the city or Washington County, Indiana.

(10) Confined feeding operations as defined in IC 13-11-2-40 shall be permitted if all required permits from the State of Indiana are obtained; provided that any structural component of a waste management system as defined in 327 IAC 16-2-44 associated with the confined feeding operation shall be located no closer than:

(a) Distance from existing dwelling, whether single-family or multi-family, except dwelling relating to the CFO. 1,500 feet

(b) Distance from public or private school or public park. 1,500 feet

(c) Distance from existing commercial or industrial building. 1,500 feet

(11) Concentrated animal feeding operations as defined in IAC 5-4 and 327 IAC 15-15 shall be permitted if all required permits from the State of Indiana are obtained; provided that the edge of any area of actual placement of manure, litter or processed wastewater on the land where the confined animal feeding operation is located shall be located no closer than:

(a) Distance from existing dwelling, whether single-family or multi-family, except for dwelling relating to the CAFO. 1,500 feet

(b) Distance from public or private school or public park. 1,500 feet

(c) Distance from existing commercial or industrial building. 1,500 feet

(B) The following uses are permitted as special exceptions:

(1) Drive-in outdoor theater subject to the requirements of this chapter;

(2) Private clubs, private lodges and private recreational buildings and areas;

(3) Tourist homes;

(4) Rooming or boarding houses;

(5) Mobile home parks in accordance with IC 16-41-27, State Board of Health Regulations, as amended and in accordance with the requirements of Supplementary District Regulations;

(6) Temporary wayside stands for the sale of farm products grown on the premises;

(7) Mobile home subdivisions in accordance with the requirements of Supplementary District Regulations;

(8) Recreational Vehicle Parks in accordance with the minimum requirements of Supplementary District Regulations.

('86 Code, § 36-7-4-600, § 6) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 893, passed 5-12-97; Am. Ord. 1286, passed 3-17-08)

§ 156.052 RESIDENCE DISTRICT; R-1.

The following regulations shall apply in this district:

(A) *Use regulations.* Permitted uses are:

- (1) One-family detached dwellings;
- (2) Parks and playgrounds;
- (3) Public structures and uses in accord with the intent of this district;
- (4) Accessory uses and structures.

(B) *Special exceptions.*

- (1) Institutions of an educational, religious, medical, charitable or philanthropic nature;
- (2) Local commercial uses;
- (3) Stable, public or private;
- (4) Type II home occupations.

('86 Code, § 36-7-4-600, § 7) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1517, passed 12-8-14)

§ 156.053 RESIDENCE DISTRICT; R-2.

The following regulations shall apply in this district:

(A) *Use regulations.* Permitted uses are:

- (1) One-family detached dwellings;
- (2) Parks and playgrounds;
- (3) Public structures and uses in accord with the intent of this district;
- (4) Accessory uses and structures.

(B) *Special exceptions.*

- (1) Institutions of an educational, religious, medical, charitable or philanthropic nature;
- (2) Local commercial uses;
- (3) Two-family, semi-detached, row or townhouse dwellings and multi-family dwellings;
- (4) Type II home occupations.

('86 Code, § 36-7-4-600, § 9) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1517, passed 12-8-14)

§ 156.054 RESIDENCE DISTRICT; R-3.

The following regulations shall apply in this district:

(A) *Use regulations.* Permitted uses are:

- (1) One-family detached dwellings;
- (2) Two-family, semi-detached, row or townhouse dwellings and multi-family dwellings;
- (3) Public structures and uses in accord with the intent of this district;
- (4) Accessory uses and structures;

(5) Compact homes (double wide mobile homes) in accordance with the requirements of Supplementary District Regulations.

(B) *Special exceptions.*

(1) Any use permitted in the R-2 Zone District;

(2) Mobile home parks in accordance with IC 16-41-27, and with the requirements of Supplementary District Regulations;

(3) Mobile Home Subdivision in accordance with the requirements of Supplementary District Regulations.

('86 Code, § 36-7-4-600, § 9) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.055 GENERAL BUSINESS DISTRICT; B-1.

The following regulations shall apply in this district:

(A) *Use regulations.* Permitted uses are:

(1) All those permitted in the R-3 Residence Zone District:

(2) Professional offices, barbershops, beauty parlors, banks, building and loan associations, automatic coin laundry and dry cleaning establishments, drugstores, fruit markets, grocery stores, hardware stores, meat markets, self service laundries, shoe repair shops and any accessory use of buildings customarily incidental to the above permitted uses;

(3) Places of amusement or assembly, theaters other than drive-in, offices, restaurants, hotels, motor courts or motels subject to the provisions of this chapter, any retail business or service including the making of articles to be sold at retail on the premises, provided that any such manufacturing or processing shall be incidental to a retail business or service, any accessory use or building customarily incidental to the above permitted uses.

(B) *Special exceptions.*

(1) Funeral home;

(2) Mortuary establishment.

('86 Code, § 36-7-4-600, § 10) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.056 HIGHWAY BUSINESS DISTRICT; B-2.

The following regulations shall apply in this district:

(A) *Use regulations.* Permitted uses are:

(1) All those permitted in the General Business District;

(2) Automobile laundry;

(3) Automobile sales - new;

(4) Automobile sales - used;

(5) Boat, boat trailer and marine accessory sales and rental;

(6) Bowling alley or similar recreational establishment entirely enclosed within a building;

(7) Building material sales;

(8) Commercial greenhouses and plant nurseries including offices and sales yards, provided that no building for any such use shall have a heating plant, ventilating flue or other opening except stationary windows within 50 feet of any Residence District;

(9) Cargo trailers, camping trailers, sales, and rental;

(10) Construction equipment sales and rental;

(11) Farm machinery sales or rental;

(12) Ice storage and vending;

(13) Mortuary;

(14) Mobile home sales lot;

(15) Motor vehicle service station conforming to the requirements of this chapter;

(16) Public garages conforming to the requirements of this chapter;

(17) Salesroom or shop of a builder, contractor or artisan providing no equipment is stored out-of-doors unless enclosed and screened from view by fences;

(18) Skating rinks;

(19) Truck sales;

(20) Accessory use and buildings customarily incidental to the above permitted uses.

(B) *Special exceptions.*

(1) Drive-in businesses including drive-in outdoor theaters, subject to the requirements of this chapter.

(2) Recreational Vehicle Parks in accordance with the minimum requirements of Supplementary District Regulations.

(C) *Conditional uses.*

(1) Adult arcades, adult bookstores, adult novelty stores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, massage parlors, semi-nude

model studios and sexual encounter establishments are conditional uses permitted in a B-2 (Highway Business) District if the following limitations and provisions exist:

(a) Such a use shall not be located within 1,000 feet of any property zoned for any residential use (R-1, R-2, and R-3) or any property upon which a mobile home park, mobile home subdivision or recreational vehicle park is located;

(b) Such a use shall not be located within 1,000 feet of any property used as a religious institution, church, or public or private school containing any grade from kindergarten through grade 12;

(c) Such a use shall not be located within 1,000 feet of any city park;

(d) Such a use shall not be permitted within 1,000 feet of any existing sexually oriented business as defined in § 156.003; and

(e) Such a use shall provide off-street parking as required by § 156.070. No standards variances shall be permitted from these off-street parking requirements for the uses described herein.

(2) Any person or entity applying for a conditional use permit hereunder shall have certified all distance measurements by a land surveyor registered by the state that there are no residential properties, public or private schools with any grade from kindergarten through 12th grade, religious institutions, churches, or city park or any other pre-existing non-conforming use which is an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, massage parlor, semi-nude model studio or sexual encounter establishment within the distances as stated above.

(3) The distances delineated in division (C)(1) shall be made by following a straight line, without regard to intervening buildings, structures, or any obstacles from the nearest point of the property upon which the proposed use will be located to the nearest point of the property or the land use district boundary line from which the proposed land use is to be separated.

(4) Any conditional use permitted under this section shall provide off-street parking as required by § 156.070. No standards variances shall be permitted from these off-street parking requirements. ('86 Code, § 36-7-4-600, § 11) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1173, passed 12-14-04)

§ 156.057 CENTRAL BUSINESS DISTRICT; CB.

The following regulations shall apply in this district:

(A) The Central Business District is intended to protect and improve the Central Business District, which contains many unique and/or historical structures. The district promotes commercial retail uses, as well as housing, offices, government, financial, cultural, and other complimentary uses. Because of

the downtown's unique character and historical setting, it requires special consideration and treatment. The scale and intensity of development permitted within the Central Business District reflects its importance as the urban center of the community by establishing less restrictive requirements in regard to parking, building setbacks, lot widths, lot depths, lot coverages and other performance standards which are necessary in other business districts.

(B) The following are uses permitted in the Central Business District, subject to all necessary permits and approvals, and other applicable requirements: enclosed amusement arcades, communications facilities, bars and taverns, bed and breakfast, churches, community centers, cultural facilities, daycare centers, dwelling units (limited to the second floor, or above, on the Public Square), dwelling units (off the Public Square), financial institutions, fire stations, police stations, home occupations, cottage industry, professional offices, governmental offices, lodge halls, restaurants, retail sales in enclosed buildings, barbershops, beauty parlors, parking garages, business service, personal service, enclosed recreation centers, drugstores, indoor theaters, photography studios, and tailoring and garment production.

(C) Accessory uses and structures customarily incidental to the principal use and/or structure shall be permitted subject to site plan requirements, all necessary permits and approvals, and other applicable requirements.

(D) Any repair, alteration, remodeling, or change proposed for at least 50% of the surface area of any outer exterior wall (including a change in materials, colors, design, or other architectural features) must be approved by the Salem Plan Commission. A written description, plans and/or drawings shall be submitted to the Office of the City Building Inspector for review by the Salem Plan Commission during a public meeting. Such written description, plans and/or drawings must be placed on file with the Office of the City Building Inspector at least ten days prior to a scheduled meeting of the Salem Plan Commission. The Salem Plan Commission will consider such description, plans and/or drawings for approval if they are found to be visually compatible with the architectural and historical appearance of the Central Business District and consistent with any design guidelines established by the Salem Plan Commission for the Central Business District.

(Ord. 1226, passed 8-8-06; Am. Ord. 1392, passed 6-13-11)

§ 156.058 LIGHT INDUSTRIAL DISTRICT; I-1.

The following regulations shall apply in this district:

(A) *Use regulations.* Permitted uses are:

(1) Wholesale businesses, warehouses, trucking terminals, and similar non-processing storage and distribution uses;

(2) Manufacturing, compounding, processing, or packaging of food and food products, and cosmetics, toiletries, and pharmaceuticals, except meat products, vinegar, yeast, and rendering or refining of fats and oils;

(3) Manufacture, compounding or assembling of articles using the following prepared materials: bone or shell, cellophane, paper, fur, glass, leather, plastics, precious or semi-precious metals or stones, rubber, textiles or cloth products, tobacco, wood or wood products;

(4) Manufacture of ceramic products, excluding building materials, using only previously pulverized clay and kilns fired by electricity or gas;

(5) Repair, manufacture or assembly from prepared materials of the following: musical instruments, clocks or watches, toys or novelties, electrical appliances, electronic devices, light sheet metal products, mining equipment, machine tools and machinery not requiring the use of a punch press over 100 tons rated capacity or drop hammer, office equipment;

(6) Building material sales yard, including the sales of rock, sand, gravel and the like as an incidental part of the main business, and contractors' equipment storage yard or plant;

(7) Research, experimental, or testing laboratories;

(8) Public utilities uses, such as electric sub-stations, storage of materials and trucks, repair facilities, offices and electric generating plants;

(9) Scrap yards and automobile wrecking yards, provided that such uses shall be set back at least 100 feet from the road and shall be screened from view by a solid fence at least eight feet high;

(10) Accessory uses and structures, including retail sales of products manufactured on the premises.

(11) Vehicle impound lots; provided, that such uses shall be surrounded by an opaque fence at least six feet in height set five feet or more inside the lot line. Any entrance to the impound lot is to be gated. Landscaping strips or sod strips are to be located between the fence and the property line of the impound lot. Any sod strips shall be mowed on a regular basis. Motor vehicles stored therein shall remain licensed at all times, and the period of storage therein shall not exceed 45 days. The fencing requirements and standards shall not be subject to any variance proceedings before the Salem Board of Zoning Appeals. Any security lighting on the premises shall be provided at the expense of the landowner or tenant.

(B) *Special exceptions.* Any other light industrial use which, in the opinion of the Board of Appeals, shall be compatible with the intent of this district.

(C) *Prohibited uses.* Dwelling or living quarters of any kind, except that there may be erected and maintained on any premises, dwellings or living quarters for bona fide caretakers and/or watchpersons and their families. Dwelling of any type so provided shall comply with all of the requirements for that type dwelling set forth for the zone in which such use is permitted or, if such dwelling is in the same building occupied by an industrial use, with the restriction that only one dwelling unit shall be permitted.

(D) *Conditional uses.*

(1) Adult arcades, adult bookstores, adult novelty stores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, massage parlors, semi-nude model studios and sexual encounter establishments are conditional uses permitted in an I-1 (Light Industrial) District if the following limitations and provisions exist:

(a) Such a use shall not be located within 1,000 feet of any property zoned for any residential use (R-1, R-2, and R-3) or any property upon which a mobile home park, mobile home subdivision or recreational vehicle park is located;

(b) Such a use shall not be located within 1,000 feet of any property used as a religious institution, church, or public or private school containing any grade from kindergarten through grade 12;

(c) Such a use shall not be located within 1,000 feet of any city park;

(d) Such a use shall not be permitted within 1,000 feet of any existing sexually oriented business as defined in § 156.003; and

(e) Such a use shall provide off-street parking as required by § 156.070. No standards variances shall be permitted from these off-street parking requirements for the uses described herein.

(2) Any person or entity applying for a conditional use permit hereunder shall have certified all distance measurements by a land surveyor registered by the State of Indiana that there are no residential properties, public or private schools with any grade from kindergarten through 12th grade, religious institutions, churches, or city park or any other pre-existing non-conforming use which is an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, massage parlor, semi-nude model studio or sexual encounter establishment within the distances as stated above.

(3) The distances delineated in division (D)(1) shall be made by following a straight line, without regard to intervening buildings, structures, or any obstacles from the nearest point of the property upon which the proposed use will be located to the nearest point of the property or the land use district boundary line from which the proposed land use is to be separated.

(4) Any conditional use permitted under this section shall provide off-street parking as required by § 156.070. No standards variances shall be permitted from these off-street parking requirements. ('86 Code, § 36-7-4-600, § 12) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1226, passed 8-8-06; Am. Ord. 1526, passed 6-8-15)

§ 156.059 HEAVY INDUSTRIAL DISTRICT; I-2.

The following regulations shall apply in this district:

(A) *Use regulations.* Permitted uses are:

- (1) Any use permitted in the I-1 Light Industrial District;
- (2) Chemical storage or manufacture;

(3) Asphalt manufacture;

(4) Machine and machine tool manufacture.

(B) *Special exceptions.*

(1) Slaughterhouse;

(2) Any other heavy industrial use, which in the opinion of the Board of Appeals, shall be compatible with the intent of this district.

(C) *Prohibited uses.*

(1) Dwelling or living quarters of any kind, except living quarters for bona fide caretakers as in the I-1 District;

(2) Any use deemed by the Board of Appeals to be noxious, offensive, or otherwise objectionable by reason of dust, fumes, gas, smoke, odor, noise, or vibration, or otherwise incompatible with the development of the area.

('86 Code, § 36-7-4-600, § 13) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1226, passed 8-8-06)

§ 156.060 PLANNED DEVELOPMENT DISTRICT; PD.

The following regulations shall apply to a Planned Development District:

(A) *Primary intended use.*

(1) Provision for Planned Development Districts is included herein to permit the establishment of areas in which diverse uses may be brought together in a unified plan of development. In Planned Development Districts, land and buildings may be used for any lawful purposes as determined by the City Council subject to the following limitations and procedures.

(B) *Area provisions.* Planned Development Districts shall comprise not less than five acres.

(C) *Procedure for establishment.*

(1) Application for establishment of a Planned Development District shall be made to the Plan Commission for consideration.

(2) The Plan Commission may require the applicant to furnish such preliminary plans, drawings, and specifications as may be required for an understanding of the proposed development. In reaching its decision on the proposed development, the Plan Commission shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood

in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

(3) The Plan Commission shall approve, approve with modifications, or disapprove such application, and shall report its decision to the City Council.

(4) The City Council shall hold a public hearing on the proposal, with public notice, as provided by law in the case of amendment to this chapter.

(5) The City Council may then amend this chapter so as to define the boundaries of the Planned Development District, but such action shall have the effect only of granting permission for development of the specific proposal, in accordance with this chapter within the area so designated with the specifications, plans, and elevations submitted.

(D) Airport planned development district.

(1) Description. The Salem Municipal Airport Planned Development District is hereby established on and within the following described real estate:

A part of the Southwest quarter of Section 13, Township 2 North, Range 3 East, Washington County, Indiana and more particularly described as follows: Commencing at an existing 1" steel pin, presumed to be the southwest corner of said Section 13; thence on the west line of said Section 13, North 00 degrees 53 minutes 25 seconds West (an assumed bearing and all other bearings relative thereto) 683.5 feet to the southwest corner of that tract of land described and recorded in Deed Record N-4, page 107; thence on the south line of said tract and the south line of that tract of land described and recorded in Deed Record H-7, page 62, South 88 degrees 26 minutes 51 seconds East 684.1 feet to a set steel pin and the Point of Beginning; thence continue on the south line of said tract and the south line of Spring Meadow Subdivision as recorded in Deed Record L-6, page 1, South 88 degrees 26 minutes 51 seconds East 1173.4 feet to a set steel pin; thence South 01 degree 33 minutes 09 seconds West 100.0 feet to a set steel pin; thence North 88 degrees 26 minutes 51 seconds West 40.0 feet to a set steel pin; thence South 01 degree 33 minutes 09 seconds West 300.0 feet to a set steel pin; thence North 88 degrees 26 minutes 51 seconds West 260.0 feet to a set steel pin; thence South 01 degree 33 minutes 09 seconds West 100.0 feet to a set steel pin; thence North 88 degrees 26 minutes 51 seconds West 858.0 feet to a set steel pin and the east line of that tract of land described and recorded in Deed Record E-7, page 585; thence on said east line, North 00 degrees 12 minutes 12 seconds West 500.2 feet to the Point of Beginning, containing 12.4 acres, more or less and subject to all easement, reservations, encumbrances and restrictions of record and/or apparent.

ALSO, and ACCESS RIGHT-OF-WAY for Ingress-Egress from State Road 56 to the above described tract as sown hereon, more particularly described as follows: Beginning at the southeast corner of Lot 31 of the Salem Municipal Airport Planned Development District; thence on the east line of said Lot 31, North 01 degree 33 minutes 09 seconds East 100.0 feet to the northeast corner of said Lot 31; thence on the south line of a 50 foot right-of-way of said district, South 88 degrees 26 minutes 51 seconds East 220.8 feet to a set steel pin; thence South

41 degrees 04 minutes 59 seconds West 52.6 feet to a point of curvature; thence 53.4 feet on a curve concave to the northeast with a radius of 25.0 feet and whose long chord bears South 20 degrees 06 minutes 02 seconds East 43.8 feet to a point of tangency; thence South 81 degrees 17 minutes 03 seconds East 382.8 feet to a point of curvature; thence 17.5 feet on a curve concave to the southwest with a radius of 25.0 feet and whose long chord bears South 61 degrees 13 minutes 34 seconds East 17.2 feet to a point of tangency; thence South 41 degrees 10 minutes 05 seconds East 51.6 feet to a point of curvature; thence 20.5 feet on a curve concave to the northeast with a radius of 25.0 feet and whose long chord bears South 64 degrees 38 minutes 14 seconds East 19.9 feet to a point of tangency; thence South 88 degrees 06 minutes 22 seconds East 102.4 feet to a point of curvature; thence 52.2 feet on a curve concave to the southwest with a radius of 139.0 feet and whose long chord bears South 75 degrees 54 minutes 19 seconds East 51.9 feet to a set steel pin on the northwesterly right-of-way line of S.R. 56; thence on the northwesterly line of S.R. 56 right-of-way, South 39 degrees 49 minutes 23 seconds West 52.9 feet to a set steel pin and point of cusp; thence 19.7 feet on a curve concave to the southwest with a radius of 89.0 feet and whose long chord bears North 80 degrees, 19 minutes 03 seconds West 19.7 feet to a point of tangency; thence North 88 degrees 06 minutes 22 seconds West 124.1 feet to a point of curvature; thence 20.5 feet on a curve concave to the northeast with a radius of 25.0 feet and whose long chord bears North 64 degrees 38 minutes 14 seconds West 19.9 feet to a point of tangency; thence North 41 degrees 10 minutes 05 seconds West 55.1 feet to a point of curvature; thence 34 seconds West 17.2 feet to a point of tangency; thence North 81 degrees 17 minutes 03 seconds West 370.0 feet to a point of curvature; thence 34.4 feet on a curve concave to the southeast with a radius of 20.0 feet and whose long chord bears South 49 degrees 28 minutes 15 seconds West 30.3 feet to a point of tangency; thence South 00 degrees 13 minutes 34 seconds West 89.0 feet to a set steel pin on the north line of that track of land described and recorded in Deed Record N-5, page 30; thence on said north line, North 81 degrees 29 minutes 46 seconds West 50.5 feet to a set steel pin; thence North 00 degrees 13 minutes 34 seconds East 42.2 feet to a point of curvature; thence 24.3 feet on a curve concave to the southwest with a radius of 25.0 feet and whose long chord bears North 27 degrees 36 minutes 00 seconds West 23.3 feet to a point of tangency; thence North 55 degrees 25 minutes 33 seconds West 129.9 feet to the Point of Beginning.

(2) Purpose of Planned Development District. This Planned Development District shall be solely used for the purpose of the construction and maintenance of aircraft hangars for the housing of private aircraft or other uses specifically permitted by this Ordinance for platted lots having access to and the use of the Salem Municipal Airport which is located on real estate described in Deed Book N-5, pages 30, 31, 32 and 33 as recorded on September 11, 1964 in the Office of the Recorder of Washington County, Indiana.

(a) No single or multi-family residential structure shall be permitted in the Planned Development District. Temporary living quarters incorporated in or part of a hangar structure shall be permitted for use solely by the owner; provided, the owner complies with all health and sanitation regulations for private wastewater disposal. The present residential occupancy of the hangar on Lots 11 and 12 in the Planned Development District is considered a non-conforming use. This non-conforming use shall not be transferable and shall terminate upon any transfer of interest in Lots 11 and 12 or upon the death of the owner/occupant.

(b) No non-aviation type of business use shall be permitted in the District. Private aviation-related businesses not in direct competition with business activities conducted by the Fixed Base Operator (FBO) shall be permitted.

(c) No industrial use shall be permitted in this Planned Development District.

(3) The plat. The plat prepared by Jerry L. Martin (RLS #580040107) and certified as of June 27, 1997 is hereby approved and authorized for the entry of transfer with the Office of the Washington County Auditor and for recording with the Office of the Washington County Recorder. This plat consists of the following:

(a) The Planned Development District includes 31 lots with Lots 1 through 9; Lots 12 through 25; and Lots 28 through 31 having a dimension of 100 feet X 100 feet. Lot 10 has a dimension of 100 feet X $222 \pm$ feet. Lot 11 has a dimension of 100 feet X $316 \pm$ feet. Lot 26 has a dimension of 100 feet X $313 \pm$ feet. Lot 27 has a dimension of 100 feet X $435 \pm$ feet.

(b) The taxiways located as shown on the plat shall be 50 feet in width and all lots shall have the use of these taxiways for access to the Salem Municipal Airport over the access described below.

(4) Access to State Highway 56. The Planned Development District shall have ingress and egress from State Road 56 over the easement described herein. Said access shall be developed and maintained by the Washington County Pilots Association, Inc., as shown on the plat approved herein.

(5) Access to Salem Municipal Airport. The Planned Development District shall have access to the Salem Municipal Airport solely and only at the location as shown on the plat approved herein with said access being adjacent to Lots 19, 20, 21 and 31 on the aforesaid plat. Additionally, members of the Washington County Pilots Association, Inc., may have access to the Salem Municipal Airport over the taxiways of the Planned Development District from private hangars adjoining the Planned Development District. The owner of any lot in the Planned Development District who also owns an adjacent lot in Spring Meadow Subdivision shall have the private and personal right of ingress and egress for non-business purposes from the owner's residential lot in Spring Meadow Subdivision to the owner's hangar lot in the Planned Development District.

(6) Private road and taxiways. The access road, taxiways within the Planned Development District and taxiway providing access to the Salem Municipal Airport shall be owned and maintained by the Washington County Pilots Association, Inc., and shall not be dedicated to the use of the public generally.

(7) Emergency vehicle access. That access to the Planned Development District shall not be gained by means of any public road or private easement located in Spring Meadow Subdivision shown in a plat recorded in Deed Book L-6, page 1, in the Office of the Recorder of Washington County, Indiana. However, access to the Planned Development District through Spring Meadow Subdivision over an easements described in Deed Book M-7, pages 597-598, and recorded as Instrument No. 97003304 both in the Office of the Recorder of Washington County, Indiana may be available for emergency

vehicles only providing emergency services to property or persons located within the Planned Development District.

(8) Utilities. The Planned Development District may be provided service by water mains, electrical lines, and natural gas lines. Any such utilities shall be located on 12 or 10 foot utility easements as shown on the plat approved herein. No private wastewater disposal facilities shall be constructed in the Planned Development District without the owner first obtaining a permit issued by the Washington County Sanitarian in conformity to current state regulations regarding the same.

(9) Drainage. The site shall be developed so that it shall continue to follow natural contours and drains with the drainage flowing either to the west or to the southeast corner of the Planned Development District. All drainage shall be directed to the drainage easement shown on the plat approved herein. An appropriate erosion control plan shall be filed with the Indiana Department of Environmental Management pursuant to the provision of 327 IAC 15-5. Twenty foot strips adjoining the taxiways and perimeter of the Planned Development District shall be graded, seeded and mulched as soon as practical to reduce erosion according to any such erosion control plan.

(10) Building setback. No building shall be constructed any closer than ten feet to any lot boundary except that the building setback line from the north line of Lots 1 through 9 shall be 20 feet 2 inches.

(11) Parking. All vehicle parking for owners of the 31 lots shall be located on each platted lot. The flow of motor vehicle traffic shall be regulated in such a manner so as to avoid sharing a taxiway with any operating aircraft.

(12) Restrictive covenants. The proposed restrictive covenants of the Washington County Pilots Association, Inc., associated with the Planned Development District are approved and authorized for recording with the Office of the Recorder of Washington County, Indiana. If there is any variance between the terms of this section and the restrictive covenants, the terms of this section shall control.

(E) *East Hackberry Street Planned Development District.*

(1) *Description.* The East Hackberry Street Planned Development District is hereby established on and within the real estate described in Exhibit "A" attached to Ordinance 1488.

(2) *Range of uses permitted in the Planned Development District.* The Planned Development District shall be used for retail stores, restaurants, service businesses (including one motor vehicle fueling station), and professional or business offices.

(3) *General development requirements.* The following general terms of development requirements for the Planned Development District, as contemplated in IC 36-7-4-1509(a)(1), are hereby established:

(a) *Subdivided lots.* A secondary plat of subdivided lots, not to exceed nine lots, consisting of one primary retail lot; one minor retail lot; and up to seven perimeter lots, is hereby authorized. None of the perimeter lots shall be smaller than 0.5 acre.

(b) *Setback of buildings.*

1. The retail building on the main primary retail lot shall not be closer than 100 feet to any lot line, whether front, rear or side.

2. The front setback on any perimeter out lot shall be at least 30 feet from the right-of-way line of East Hackberry Street (Indiana State Road 56).

3. The side and rear setbacks for the perimeter out lots shall be no less than as proposed in the site plan attached to Ordinance 1488 as Exhibit "B".

4. In any instance where the setbacks set out in § 156.076 conflict with the terms of § 156.060(E), then § 156.060(E) shall control.

5. The setbacks set out in § 156.078 as to motor vehicle service stations shall apply.

(c) *Height, area and lot coverage of buildings.* The maximum lot coverage and maximum height of buildings as required in I-1 (Light Industrial) Zones shall apply. A copy of the preliminary site plan is attached to Ordinance 1488 as Exhibit "B".

(d) *Parking ratios.* The parking ratios as set out in § 156.070 shall apply.

(e) *Access to public streets and highways.* Two entrances on the west side of the tract off of Kimball Boulevard, as shown in Exhibit "B", shall be permitted. Up to two entrances to the north side of the tract off of East Hackberry Street (Indiana State Road 56), as shown on Exhibit "B", shall be permitted, subject to the requirements of the Indiana Department of Transportation.

(f) *Lighting.* The provisions of Chapter 157 shall apply.

(g) *Signage.* The provisions of § 156.074 shall not apply. Specific details of signage shall be submitted in the final site plan referred in division (E)(5) below.

(h) *Detention basins.* The provisions of Chapter 159 shall apply.

(4) *Secondary approval.* Pursuant to the provisions of IC 36-7-4-1509(c)(1) and IC 36-7-4-1511(a), the Common Council hereby delegates secondary review of this Planned Development District to the Plan Commission, to be conducted as follows:

(a) The filing of plan documentation as set out division (E)(5) below.

(b) During a regular or special meeting of the Plan Commission, during which the secondary review will be listed as an agenda item, with the agenda being posted as required by the Indiana Open Meetings Law.

(c) Official action by the Plan Commission conducting a secondary review of this Planned Development District will be noted in the minutes of its meeting, with copies thereof to be transmitted to the Common Council for its information.

(d) The Common Council hereby delegates to the Plan Commission the authority to make modifications in permitted uses or development requirements under the provisions of IC 36-7-4-1511 (b). If such modifications are made, a public hearing shall be held thereon, with notice given in the same manner as required by IC 36-7-4-604(b) and (c). Minor modifications to the Planned Development District may be authorized by the Plan Commission without a public hearing. Minor modifications shall include the following:

1. A change in the number or location of Planned Development District access to Kimball Boulevard and East Hackberry Street.

2. A change in the number, size and dimensions of the perimeter out lots, the minor retail parcel and the major retail parcel; provided, that the total number of platted lots does not exceed nine.

3. Modifications to the proposed parking plan; provided, that the parking ratios of § 156.070 are followed.

4. Change in location of the primary retail structure; provided, that the proposed building setbacks in Exhibit "B" are not exceeded.

5. Change in location of proposed storm water detention basins; provided, that the provisions of Chapter 159 are followed.

6. Final establishment of location, size and character of the signage for the Planned Development District.

(5) *Plan documentation.* A plat shall be submitted for secondary approval meeting the general requirements of § 154.19.

(6) *Planned Development District limitations.*

(a) The boundaries of the district may not be changed without a public hearing and Planned Development District procedures.

(b) A proposed change in range of permitted uses as set out in § 156.060(E)(2). ('86 Code, § 36-7-4-600, § 14) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 900, passed 9-8-97; Am. Ord. 988, passed 9-13-99; Am. Ord. 1226, passed 8-8-06; Am. Ord. 1488, passed 2-10-14)

SUPPLEMENTARY DISTRICT REGULATIONS

§ 156.070 OFF-STREET PARKING REQUIREMENTS.

(A) Permanent off-street automobile parking spaces shall be provided for all new structures or uses and any enlargement of existing structures or uses. Any parking space assigned on March 3, 1969 to an existing structure or use shall be continued and shall not be counted as parking area for a new structure or use as long as the original structure or use continues.

(B) One automobile parking space shall consist of 200 square feet of area, with a minimum width of nine feet. In addition, adequate interior drives and driveways to connect each parking space to a public street shall be provided.

(C) Parking areas shall be well drained and constructed of materials which will eliminate problems of dust and mud.

(D) Parking areas shall be located on the same site as the structure or use they serve, or for non-residential uses, may be located on a separate site within 300 feet.

(E) Parking spaces shall be provided in accordance with the following schedule:

(1) Single-family, two-family, and multiple dwellings: One space per dwelling unit.

(2) Mobile homes on individual lots in agricultural districts, compact homes, and mobile home subdivisions: Same requirements as for single-family connectionally built dwellings.

(3) Mobile home parks: One off-street parking space for each mobile home site, plus one additional off-street parking space for each four sites for guest parking.

(4) Recreational vehicle parks: One off-street parking space for each recreational vehicle space, plus one off-street space for each park employee.

(5) Hotels, motels, tourist homes, and rooming houses: One space per room or suite.

(6) Theater, auditorium, church, and similar places of assembly: One space per every five seats.

(7) Civic clubs, private club or lodge: One space per 200 square feet of floor area.

(8) Hospital and rest homes: One space per four beds.

(9) Bowling alley: Five spaces per alley.

(10) Other commercial recreation establishments: One space per 350 square feet of floor space accessible to business invitees.

(11) Food store, drug store, restaurant: One space per 350 square feet of floor space accessible to business invitees.

(12) Furniture store, automobile sales room, showroom, wholesale establishment, and similar uses: One space per 350 square feet of floor area accessible to business invitees.

(13) All other retail sales and service establishments: One space per 350 square feet of floor area accessible to business invitees.

(14) Professional office or office building: One space per 200 square feet of floor area.

(15) Industrial plant: One space per 400 square feet of floor area or one space per every three employees of the maximum shift, whichever is the greatest.

(16) Warehouse and similar uses: One space per 1,000 square feet of floor area.

(F) Designs and plans for open areas to be used for automobile parking shall be approved by the Plan Commission. Plans for such parking areas, submitted to the Commission, shall show in detail the location and extent of the area, locations and types of walls, fences, and screen plantings, proposed layout of parking spaces, and other features, conditions, or requirements of this chapter.

(G) In cases of development or redevelopment of properties where application of the foregoing schedule would create undue hardship, the applicant may appear before the Board of Appeals to present a modified plan for the provision of off-street parking areas. The Board of Appeals is authorized to approve such plan after referral to the Plan Commission.

(H) The Central Business District described in § 156.057 is exempt from the off-street parking requirements of this section.

('86 Code, § 36-7-4-600, § 15(A)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1226, passed 8-8-06; Am. Ord. 1381, passed 11-8-10) Penalty, see § 156.999

§ 156.071 OFF-STREET LOADING REQUIREMENTS.

(A) At least one off-street loading space shall be provided for every hospital, institution, commercial, and industrial building erected after March 3, 1969 with a floor area of 5,000 square feet or more.

(B) Each loading space shall have a minimum width of 12 feet, a minimum length of 35 feet, and a minimum height, if covered, of 14 feet. Each loading space shall have access to a public street or alley.

('86 Code, § 36-7-4-600, § 15(B)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.072 ACCESSORY STRUCTURES AND USES.

(A) *Accessory structures.*

(1) Accessory structures include garages, storage buildings, barns and similar structures. The area of accessory buildings shall be included in calculations of lot coverage.

(2) No accessory building shall be erected in any required yard, except the Board of Appeals may allow construction of a garage in the front yard space.

(3) No accessory building shall be erected less than five feet from the rear lot line or less than five feet from any other building on the lot.

(4) No accessory buildings, except an agricultural barn as described below, shall be greater than 18 feet in height, except that the Board of Zoning Appeals may approve greater heights as a special exception.

(5) A barn used exclusively for on-site agricultural purposes located on a tract of real estate of ten acres or less in an R-R (Rural-Residential) Zone shall not be greater than 25 feet in height without the granting of a special exception by the Salem Board of Zoning Appeals.

(6) A barn used exclusively for on-site agricultural purposes located on a tract of real estate in excess of ten acres in an R-R (Rural-Residential) Zone shall not be considered an accessory use or structure and shall be considered the primary structure for setback and height limitations.

(7) A garage having any part of a wall in common with a dwelling is considered part of the main building and not an accessory building.

(8) A mobile home is not considered an accessory structure. ('86 Code, § 36-7-4-600, § 15(C))

(B) *Accessory uses in residential districts.* The following accessory uses are permitted in the R-1 and R-2 Districts.

(1) Home occupations that do not change the residential character and appearance of such dwelling, as permitted pursuant to the provisions of § 156.091.

(2) The renting of rooms to no more than two persons by a resident family. Table board may not be provided for persons residing on the premises. ('86 Code, § 36-7-4-600, § 15(D)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1157, passed 9-14-04; Am. Ord. 1219, passed 4-11-06; Am. Ord. 1517, passed 12-8-14) Penalty, see § 156.999

§ 156.073 PUBLIC UTILITY USE OR STRUCTURES.

Water, sewer, electric, gas, telecommunications, and communications lines, and necessary incidental equipment such as repeaters, transformers, switches, pumps, and regulators when such equipment is located on the lines or premises of the owners but no administration, construction, maintenance or storage uses, are permitted in all zones and shall not be subject to lot, yard, height, and lot coverage requirements. All other public utility facilities not permitted in the District Regulations are permitted

only as special exceptions in any zone when approved by the Board of Appeals which shall provide for adequate safeguards to the adjoining properties.

('86 Code, § 36-7-4-600, § 15(E)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.074 SIGNS.

(A) *General provisions.* No sign shall be erected, hung, placed or painted in any district, except as provided in this section.

(B) No sign shall be erected or displayed until the sign has been approved by the City Building Inspector and a permit issued, except that the following signs may be erected without a permit:

(1) Name and identification signs of two square feet or less.

(2) Temporary business signs not maintained for a period in excess of ten days.

(3) A temporary real estate sign advertising the sale or rental of the property on which it is located not to exceed six square feet in area.

(4) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(5) Directional or information signs of a public or quasi-public nature, erected and maintained by an official or civic body.

(C) (1) For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit, where matter is displayed in a random manner without organized relationship of elements, or where there is a reasonable doubt about the relationship of elements, each element shall be a single sign. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. Only one side of a two face sign shall be used for computing sign area.

(2) A sign structure which consists of multiple sign facings placed at angles to each other resulting in the signs being oriented in different directions is hereby designated a "V-shaped" sign. No V-shaped sign shall have a separation of greater than 15 feet from one opposite leading edge to the other.

(3) If a sign is allowed to become in a state of disrepair, the City Building Inspector shall issue a notice of violation to the owner of the sign and to the property owner on which the sign is located.

Upon receipt of the notification, the owner of the sign and/or the property owner shall have ten days to correct any and all violations as set forth in the issued notice of violation. Failure to correct the violation with the specified time frame shall result in the City Building Inspector issuing a not of order to comply in accordance with the provisions of Chapter 155 of the city code which incorporates, by reference, the provisions of IC 36-7-9.

(4) Any outdoor advertising sign erected and in existence on the effective date of this section which does not meet the requirements of this section shall be considered a nonconforming structure and may be continued in use so long as it remains in a proper state of repair or is not structurally altered.

(D) No sign erected before March 3, 1969 shall be altered or moved except in accordance with this chapter.

(E) Signs may be illuminated in a B-1, B-2, I-1 or I-2 district (only); provided they do not created a nuisance, glare or unduly illuminate an adjoining residential area. The applicant shall provide the City Building Inspector with sufficient technical and design information to demonstrate to the satisfaction of the City Building Inspector that the following provisions are met:

(1) Externally illuminated signs shall be carefully located, aimed, and shielded so that the light is directed only onto the sign facade. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.

(2) Light fixtures illuminating signs shall be of a type such that the light source or bulb is not directly visible from adjacent streets, roads, or properties.

(3) To the extent practicable, fixtures used to illuminate signs shall be top mounted and directed downward. (i.e. below the horizontal).

(F) The following signs are allowed in residential districts (RR, R-1, R-2, R-3):

(1) Name and identification signs indicating the name and address of the occupant or permitted home occupations, provided that such sign shall not be greater than two square feet in area;

(2) Institutional signs for public and semi-public uses provided that such signs shall not exceed 20 square feet in area;

(3) *Tourist home sign.* A sign for a tourist home, permitted in a residential district, shall not exceed six square feet.

(G) The following signs are allowed in the B-1, B-2, I-1, 1-2 Districts:

(1) All signs permitted in the residential district;

(2) On-premise signs (as defined in § 156.003); providing the sum of the area of all signs does not exceed 200 square feet.

(3) One additional freestanding identification on-premise sign (as defined in § 156.003) may be erected on each separate commercial lot providing the following criteria are maintained:

(a) The sign shall contain only the name of the building or name of the business enterprise.

(b) The height of the sign structure shall not exceed the following limitations:

Central Business District	CB	Roofline
General Business District	B-1	35 feet
Highway Business District	B-2	50 feet
Light Industrial District	I-1	35 feet
Heavy Industrial District	I-2	35 feet

(c) The sign area shall not exceed 100 square feet in area.

(H) Outdoor advertising signs, displays and billboards are permitted in the B-2, I-1, and I-2 Districts, in accordance with the following provisions:

(1) An off-premise sign structure, whether single-faced, double-faced, or V-shaped, shall not have an area greater than 600 square feet as measured by the exterior dimensions of the sign frame.

(2) An off-premise sign structure shall not exceed a height of 25 feet. The height of a sign shall be measured from the lowest point of elevation beneath the framework of the sign as determined by the City Building Inspector.

(3) An off-premise sign structure shall not be closer than 30 feet of the right-of-way as measured to the nearest point of the structure of the sign to the edge of the right-of-way.

(4) All off-premise sign structures shall conform to the following setbacks, provided no right-of-way is prevalent. (If a right-of-way is prevalent, then the setback shall be determined as provided in division (H)(3).)

<u>Front</u>	<u>Rear</u>	<u>Side</u>
30'	30'	15'

(5) An off-premise sign structure shall not be located within a 500-foot radius of another outdoor advertising structure as measured to the leading edge of the sign.

(6) An off-premise sign structure shall not be located closer than a 150-foot radius from any residential structure located within a residential zone as measured to the leading edge of the sign.

(7) An off-premise sign structure shall not be located closer than 500 feet to a park, school, or other publicly owned building as measured to the leading edge of the sign.

(I) Outdoor advertising within 600 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems are in addition to the stipulations of this chapter subject to the requirements of Title I of the Highway Beautification Act of 1965, as amended.

('86 Code, § 36-7-4-600, § 15(F)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1145, passed 4-13-04; Am. Ord. 1532, passed 10-12-15) Penalty, see § 156.999

§ 156.075 YARD EXCEPTIONS.

For large scale housing developments. Upon presentation to the Plan Commission of a site plan showing the location of buildings, streets, yards and other open spaces, for the unified residential development of an area bounded on all sides by streets or a park or other permanent open space, the Plan Commission may waive the theretofore established side and rear yard requirements. After approval of the Plan Commission, the Board of Zoning Appeals may authorize the Zoning Enforcement Officer to issue permits in accordance therewith, if the net land area per dwelling unit contained in the development is now less than that prescribed for the district in which the development is located.

('86 Code, § 36-7-4-600, § 15(G)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.076 SHOPPING CENTERS.

After reference to and approval thereof by the Plan Commission, the Board of Zoning Appeals may authorize the issuance of a permit or permits for the construction of a shopping center for the conduct of a retail business in all Residence Districts, if that proposed shopping center conforms to the following requirements:

(A) *Area.* The minimum area shall be ten acres.

(B) *Initial construction.* Satisfactory assurance shall be given that initial construction will comprise not less than 50% of the planned total construction as measured in terms of the bulk of the buildings proposed to be built.

(C) *Plan.* The proposed development shall be in accordance with a unified site plan and architectural scheme. However, it shall not be required that the whole of the development be in a single ownership or built or financed by a single part, if satisfactory evidence is shown that parties financially or otherwise concerned in the development are legally bound to conform to the above required unified site plan and architectural scheme.

(D) *Entrances upon streets and highways.* All vehicular entrances and exits upon public roads shall be approved by the proper highway authorities.

(E) *Off-street parking.* Automobile parking space shall be provided on the premises with an area not less than the parking spaces set out for general retail and service establishments in Salem City Code § 156.070(E)(13).

(F) *Off-street loading and unloading space.* Off-street loading and unloading space shall be provided in addition to the space required by this chapter.

(G) *Boundary treatment.* No building shall be placed closer to any street or road line than 100 feet or closer to any other property line than 200 feet. No parking space shall extend nearer to any street or road line than the established building line or closer to any other property line than 50 feet, and the boundaries along all side and rear property lines abutting upon a Residential District shall be appropriately landscaped and maintained for a depth of not less than 50 feet. Where the shopping center area is directly adjoined by land in a Business or Industrial District or by a railroad right-of-way, buildings may extend to within 50 feet of the property line and automobile parking space may extend to the property line.

('86 Code, § 36-7-4-600, § 15(H)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1381, passed 11-8-10) Penalty, see § 156.999

§ 156.077 HOTELS, MOTOR COURTS OR MOTELS.

Hotels, motor courts or motels, where allowable under this chapter shall conform to the following requirements:

(A) Each rental structure shall contain at least eight rental units.

(B) Automobile parking space to accommodate not less than one car for each rental unit plus one additional space for every two persons regularly employed on the premises.

(C) Each rental unit shall be supplied with hot and cold running water and equipped with a flush toilet.

('86 Code, § 36-7-4-600, § 15(I)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.078 PUBLIC GARAGES AND MOTOR VEHICLE SERVICE STATIONS.

(A) No public garage or motor vehicle service station, or private garage for more than five cars shall have a vehicular entrance closer than 200 feet to an entrance to church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street if the entrances are on the same side of the street or within the same square block. A motor vehicle impound lot as defined in § 156.003 is not considered to be a public or private garage.

(B) All motor vehicle service stations shall be so arranged and all gasoline pumps shall be so placed, as to require all servicing on the premises and outside the public way, and no gasoline pump shall be placed closer to any side property line than 50 feet.

(C) No inoperative motor vehicles shall be kept on the premises of motor vehicle service stations for longer than two weeks.

(D) All waste material shall be stored within structure or enclosed within fencing so as not to be visible from off the property.

('86 Code, § 36-7-4-600, § 15(J)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1526, passed 6-8-15) Penalty, see § 156.999

§ 156.079 TEMPORARY USES AND STRUCTURES.

Temporary permits may be issued by the Zoning Enforcement Officer for a period not exceeding one year, for nonconforming uses incident to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials, and a real estate office located on the tract being offered, for sale, if those permits are conditioned upon agreement by the owner or operator to remove the structure or structures upon expiration of the permit. Such permits may be renewed yearly upon application to the Zoning Enforcement Officer for an additional period of one year.

('86 Code, § 36-7-4-600, § 15(K)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.080 DRIVE-IN BUSINESS.

Plans for the erection or structural alteration of drive-in business establishments as herein defined shall be submitted to the Plan Commission for approval. The Plan Commission may require such changes therein in relation to yards, driveways, driveway entrances and exits, and the location and height of buildings and enclosures as it may deem best suited to insure safety, to minimize traffic hazards or difficulties, and to safeguard adjacent properties.

('86 Code, § 36-7-4-600, § 15(L)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.081 STORAGE OF FLAMMABLE LIQUIDS.

The storage of alcohol, gasoline, crude oil, liquified petroleum gas or another highly flammable liquid in above ground tanks with unit capacity greater than 550 gallons shall be prohibited in all districts unless such tanks up to and including 10,000 gallon capacity are placed not less than 50 feet from all property lines and unless all such tanks of more than a 10,000-gallon capacity are placed not less than 100 feet from all property lines. All tanks having a capacity greater than 550 gallons shall be properly diked with earthen dikes having a capacity not less than 1½ times the capacity of the tank or tanks surrounded.

('86 Code, § 36-7-4-600, § 15(M)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.082 PRIVATE SWIMMING POOLS AS ACCESSORY USE.

A private swimming pool installed or maintained as an accessory use in a residential district shall meet the following requirements:

(A) It shall be used only as an accessory use to a dwelling or to a special permit use in a Residence District for the private use of the owner or occupant of such dwelling or building and his or her family, guests, or employees.

(B) Any such pool which is installed less than 100 feet from any property line shall be completely enclosed by a security fence not less than four feet in height, with all gates or doors opening through such enclosure equipped with self-closing and self-latching devices designed to keep and capable of keeping such gates or doors securely closed at all times when not in actual use of a type approved by the Zoning Enforcement Officer.

(C) Such pool shall be maintained in a manner sufficient to meet the bacterial standards established by the provisions of the County Health Department and/or State Board of Health as relating to public swimming pools.

(D) Such pool shall be equipped with an integral filtration system and filter pumps and other mechanical devices which shall be so located and constructed as not to interfere with the peace, comfort, and repose of the occupant of any adjoining property.

(E) No permission shall be granted for the installation of any swimming pool until the owner has filed with the Zoning Enforcement Officer a statement by a professional engineer, licensed by the state, that provisions for the drainage of such pool are adequate and will not interfere with the public water supply system or existing sanitary facilities.

('86 Code, § 36-7-4-600, § 15(N)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.083 DWELLINGS.

(A) *Minimum floor area.* No single-family dwelling shall henceforth be constructed nor shall any existing single dwelling be reduced in area, so as to contain less than 500 feet of floor area usable for living purposes and 300 square feet of storage area usable for storage. No dwelling unit in a two-family or multiple-family dwelling shall henceforth be constructed nor shall an existing dwelling unit in such building be reduced in area, so as to contain less than 600 square feet of floor area usable for living purposes and 100 square feet of floor area usable for storage purposes.

(B) *Cellar occupancy prohibited.* It shall be unlawful to occupy all or any part of a cellar for sleeping purposes. A cellar is defined as a space of which the majority is below ground level to which the upper structure is added.

(C) *Slope of yards.* No building containing dwelling units shall henceforth be constructed, nor

shall any existing building be altered so as to contain dwelling units unless the surface grade of the front yard at the front wall of such building be more than one foot above the established grade of the sidewalk. Where a sidewalk grade has not been established the surface grade of the front at the front wall of the dwelling shall be not less than one foot above the center line of the street measured at the midpoint between the side lot lines of the lot. Where there is unusual difficulty in meeting this provision, the Zoning Enforcement Officer may accept a substitute gradient if no minus gradient is established within 15 feet of the front wall or within six feet of either side of the rear wall of the dwelling.

('86 Code, § 36-7-4-600, § 15(O)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.084 MOBILE HOME PARK.

(A) A mobile home park may be allowed in the RR, and R-3 Districts as a special exception.

(B) No mobile home shall be parked and occupied in any district outside an approved mobile home court for more than 48 hours except upon a special permit issued by the Zoning Enforcement Officer. Such permit shall be issued for a period not to exceed 30 days and shall not be renewable within the same calendar year.

(C) As an exception to the above, a permit may be issued for parking and occupying a mobile home on land owned by the occupant or occupants, during the construction of a house thereon for a period not exceeding 180 days and shall be renewable for an additional period not exceeding 180 days. However, if material progress with house construction is not made within 45 days from the issuance of the permit or if construction work ceases for a consecutive period of 45 days, such permit shall become void.

(D) A mobile home park shall be at least five acres in size and have spaces for at least five mobile homes. Each mobile home space shall be at least 3,000 square feet with a minimum width of 40 feet and a minimum depth of 75 feet. No part of a mobile home, including expansion units, shall be closer than ten feet to the edge of the space provided. The total number of mobile home lots shall not exceed eight per gross acre. Off-street parking, consisting of one space for each mobile home, shall be provided.

(E) When submitting the special exception application, the applicant shall include a plan, drawn at the suitable scale, showing the arrangement of the mobile home sites and connecting driveways, if any, in the proposed mobile home park. The layout plan shall be approved by the Plan Commission as part of the special exception review. The applicant shall also present a written statement, with accompanying plans as necessary, describing how water and sewage disposal service are to be provided. These arrangements shall be approved by the County Health Department and/or State Board of Health before a special exception is approved.

(F) The following minimum requirements shall apply:

(1) No mobile home shall be nearer than 100 feet to the right-of-way line of any thoroughfare.

(2) A dense green belt of evergreen trees and/or shrubs, not less than six feet high after three full growing seasons and which at maturity is not less than 12 feet high, shall be located and effectively maintained at all times along all park boundary lines except at established entrances and exits serving the park.

(3) Each park shall provide a recreational area or areas equal in size to at least 8% of the area of the park. Streets, parking areas, and park service facility areas shall not be included in the required recreational area.

(4) Coin-operated laundries, laundry and dry-cleaning pick-up stations and other commercial convenience establishments may be permitted if:

(a) They are subordinate to the residential character of the park;

(b) They are located, designed and intended to serve only the needs of persons living in the park;

(c) The establishments and the parking areas related to their use shall not occupy more than 10% of the total area of the park; and

(d) The establishment shall present no visible evidence of their commercial nature to areas outside the park.

(5) Each park shall provide either one central waterproof structure available to all mobile home sites or a single waterproof structure for each mobile home site suitable for storage of goods and the usual effects of persons occupying the park.

(6) All exterior park lights shall be so located and shielded as to prevent direct illumination of any areas outside the park.

(7) Each mobile home site shall be provided with a stand consisting of either a solid concrete slab or two concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock.

('86 Code, § 36-7-4-600, § 15(P)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.085 MOBILE HOME LOCATION.

In urban or urbanizing areas (all districts except RR) except as a temporary use, mobile homes shall be permitted to be occupied only in mobile home parks. The Zoning Enforcement Officer may permit mobile homes in RR districts subject to the following conditions:

(A) Each mobile home shall be located on a lot and shall be the only principal building on the lot.

(B) The minimum lot size, minimum yard sizes, and other single-family dwelling requirements of the RR District are complied with.

(C) Each mobile home shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities and plumbing and electrical connections designed for and attached to appropriate external systems.

(D) Personal goods and articles, other than cars, fuel tanks, boats, lawn furniture and similar items too large to reasonably enclose, shall be stored on the mobile home lot only in a completely enclosed structure.

(E) All health and sanitary regulations of the County Health Department and/or the State Board of Health are complied with.

(F) A temporary permit of record is issued by the Zoning Enforcement Officer for a mobile home subject to termination under the condition established in division (G) below.

(G) When the area within which the lot is located is rezoned to a residential, business or manufacturing district, the mobile home shall be removed from the new district within 180 days after the rezoning.

('86 Code, § 36-7-4-600, § 15(Q)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.086 COMPACT HOME REQUIREMENTS.

In any district in which compact homes are permitted, the following minimum requirements shall apply:

(A) Each compact home shall be located on a lot and shall be the only principal building on the lot.

(B) A compact home shall comply with the minimum lot size, minimum yard size and other single family dwelling requirements of the district in which it is located.

(C) The wheels shall be removed from each compact home.

(D) All compact homes shall be supported under all exterior walls by a permanent foundation completely enclosing the undercarriage as approved by the Zoning Enforcement Officer.

(E) Each compact home shall be oriented on the lot in such a manner as is most compatible with other dwellings in the immediate neighborhood.

('86 Code, § 36-7-4-600, § 15(R)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.087 STORAGE OF MOBILE HOME AND RECREATIONAL VEHICLES.

(A) Storage of a continually unoccupied mobile home is permitted in districts B-2, I-1 and I-2 only.

(B) Storage of a continually unoccupied recreational vehicle in a private garage or rear or side yard is permitted in all districts.

('86 Code, § 36-7-4-600, § 15(S)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.088 MOBILE HOME SUBDIVISION.

In any district in which mobile home subdivisions are permitted, the following minimum requirements shall apply:

(A) When submitting the special exception application, the applicant shall include a plan, drawn at a suitable scale, showing the arrangement of the mobile home sites and connecting driveways, if any, in the proposed mobile home subdivision. The layout plan shall be approved by the Plan Commission as part of the special exception review. The applicant shall also present a written statement with accompanying plans as necessary, describing how water and sewage disposal service are to be provided. These arrangements shall be approved by the County Health Department and/or State Board of Health before a special exception is approved.

(B) The minimum area of a mobile home subdivision shall be five acres.

(C) The wheels shall be removed from each mobile house occupying a lot in the subdivision.

(D) Each mobile home shall be supported under all exterior walls by a permanent foundation completely enclosing the undercarriage as approved by the Zoning Enforcement Officer.

(E) Each mobile home occupying a lot in the subdivision shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for and attached to appropriate external systems.

(F) A dense green belt of evergreen trees and/or shrubs not less than five feet high after one full growing season and which at maturity is not less than ten feet high, shall be provided by the subdivider along all subdivision boundary lines except at established street entrances and exits serving the subdivision.

(G) The minimum residential lot sizes in subdivisions served by a public sewer system shall be 4,800 square feet and the minimum lot width 45 feet.

(H) The minimum residential lot area and width in subdivisions served by septic tanks shall be the same as required for single-family dwellings in the district in which the mobile home subdivision is located.

(I) Each mobile home shall have a minimum ten feet side yard on each side. Side yard means the area extending between the outside wall of the mobile home and the nearest side lot line.

(J) The minimum front yard setback for single-family dwellings of the district in which the subdivision is located shall be adhered to by each mobile home.

('86 Code, § 36-7-4-600, § 15(T)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.089 RECREATIONAL VEHICLE PARKS.

In any district in which recreational vehicle parks are permitted the following minimum requirements shall apply:

(A) Recreational vehicle parks shall have direct access to an arterial or major thoroughfare with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of recreational vehicles into and out of the park.

(B) Conditions of soil, ground water level, drainage, geologic structure and topography shall not create hazards to the park site or the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence, sudden flooding or severe erosion.

(C) The density of a park shall not exceed 25 recreational vehicle spaces per acre of gross site area.

(D) Recreational vehicles shall be separated from each other and from other park buildings or structures by at least ten feet.

(E) In addition to complying with any required side or rear yard provisions of the district in which the park is located, no recreational vehicle space shall be nearer than 50 feet to the right-of-way line of an arterial or major thoroughfare or nearer than 25 feet to the right-of-way line of a minor thoroughfare, and where the boundary line of a recreational vehicle park coincides with that of a residential district other than along a thoroughfare or alley, a yard of at least 25 feet in width shall be required.

(F) At least one centrally located recreation area equal in size to 8% of the gross park area shall be provided in each recreational vehicle park. Streets, parking areas and park service facility areas shall not be included in the required recreational area.

(G) In agricultural, conservation and/or forest reserve districts, food stores, restaurants, sporting goods, laundromats, dry cleaning pickup stations and similar convenience and service shops shall be

permitted in recreational vehicle parks containing 50 or more spaces provided:

(1) Such shops and the parking areas required by their use shall not occupy more than 10% of the total area of the park;

(2) The use of such shops shall be solely by the occupants of the park; and

(3) Such shops shall be so located or designed within the park to present no visible evidence of their commercial nature to persons outside the park.

(H) Management offices and storage, playground and picnic equipment, sanitation and laundry facilities, informational signs and other structures customarily incidental to a recreational vehicle park shall be permitted as accessory uses.

(I) A dense green belt of evergreen trees and/or shrubs, not less than six feet high after one full growing season and which at maturity is not less than 12 feet high, shall be located and effectively maintained at all times along all park boundary lines where deemed necessary by the Board of Zoning Appeals to protect occupants from adverse influences outside the park or nearby neighbors from adverse effects of the park.

(J) Recreational vehicle spaces shall be rented by the day or week only and each recreational vehicle occupying a space shall remain in the same park no longer than 30 days.

('86 Code, § 36-7-4-600, § 15(U)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.090 AIRPORT OVERLAY DISTRICT.

The Airport Overlay District (AO) shall include all zones as indicated in the Airport Layout Plan approved by the Federal Aviation Administration on August 4, 2009. The centerline of Runway 8-26 of this airport plan is described as set out in Exhibit A attached to Ord. 1468, passed 9-9-13. All land so indicated is hereby zoned and classified as the Airport Overlay Zoning District.

(A) *Purpose and intent.* It is hereby found that an airport hazard has the potential for endangering the lives and property of users of Salem Municipal Airport, and property or occupants of land in its vicinity; that an airport hazard may affect existing and future instrument approach minimums of Salem Municipal Airport; and that an airport hazard may reduce the size of area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Salem Municipal Airport and the public investment therein. Accordingly, it is declared:

(1) That the creation or establishment of an airport hazard has the potential of being a public nuisance and may injure the region served by the Salem Municipal Airport;

(2) That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and

(3) That the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(B) *Airport zones.* In order to carry out the provisions of the Airport Overlay District, there are hereby created and established certain zones which include all of the land lying within the approach zones, conical zone, horizontal zone, transitional zones, noise sensitive zone and wildlife attractant zones as they apply to the Salem Municipal Airport. Such zones are shown on the Salem Municipal Airport Airspace Plan consisting of two sheets, dated May 6, 2013, which is attached to Ord. 1468, passed 9-9-13 and made a part thereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation as defined in § 156.022. The various zones are hereby established in accordance with FAR Part 77 and defined as follows:

(1) *Runway approach zones, with non-precision instrument approaches.* The inner edge of this approach zone coincides with the width of the primary surface which is 500 feet wide. The approach expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.

(2) *Conical zone.* The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zone and the transitional zones.

(3) *Horizontal zone.* The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of Runway 8-26, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(4) *Transitional zones.* These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward perpendicular to the runway centerline and the runway extended centerline.

(5) *Noise sensitive zone.* This zone is hereby established as the area lying 1,500 feet on either side of the centerline and extended centerline of the runways for a distance of one nautical mile from the point of which the extended runway centerline crosses the airport boundary.

(C) *Airport Overlay District height limitations.* Within the Airport Overlay District, the following height limitations apply.

(1) Nothing in this section shall be construed as prohibiting the planting, growth, construction or maintenance of any tree or structure to maximum height of 50 feet above the ground, except as otherwise provided in this section, no structure or tree shall be erected, altered, or maintained, or be allowed to grown in any zone created by this section to a height in excess of the applicable height limits herein established, for such zone. The applicable height limitations are hereby established for each of the zones in question as follows:

(a) *Runway 8-26 approach zones, with non-precision instrument approaches.* Slopes upward 34 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(b) *Conical zone.* Slopes upward and outward 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(c) *Horizontal zone.* Elevated 150 feet above the airport elevation at a height of 1076.11 feet above mean sea level.

(d) *Transitional zones.* Slopes upward and outward seven feet horizontally for each foot vertically, beginning at the sides of and at the same elevation as the primary surface and the approach surfaces and extending to a height of 150 feet above the airport elevation which is 1076.11 feet above mean sea level.

(2) *Additional height limitations.* Except as otherwise provided in the Airport Overlay District, no structure or tree shall be erected, altered, or maintained, or be allowed to grow in any zone created by the Airport Overlay District to a height in excess of the additional height limits herein established by I.C. 8-21-10-7 and defined as follows:

(a) A height that is 500 feet above ground level or 1426.11 feet above mean sea level at the site of the object.

(b) A height that is 200 feet above ground level or 1126.11 feet above mean sea level, within three nautical miles of the established reference point of the airport, and that height increases in the proportion of 100 feet for each additional nautical mile of distance from the airport up to a maximum 500 feet.

(D) *Noise sensitive zone.* Except as provided below, the underlying district land usage specified in this section shall be met in the noise sensitive zone.

(1) Schools, libraries and hospitals are prohibited.

(2) New residential uses are subject to written acknowledgment which must be recorded for the subject property prior to the issuance for an improvement location permit.

“The owners of the subject property shall be aware that they are in the vicinity of the Salem Airport. They are hereby made known by this notification that there are activities at this airport which produces noise, vibration, light, glare and odor at all hours of the day and night and which are used or intended to be used for the taking off and landing of aircraft and any appurtenance areas which are used or intended to be used for airport buildings or facilities, including runways, taxiways, hangars and tie-downs areas that go on during the operation of an airport. Each owner and their heirs, assigns, and successors in interest shall not initiate or support any action in any court or before any governmental agency and are precluded from protest, objection, interference with, restriction of or reduction of the operation of the airport, complaining, seeking damages and/or attempting to enjoin the use of property (land) for such purpose. This condition and agreement shall also run with the land as is irrevocable.”

(E) *Relation to underlying zoning.* This district is created as a special overlay district to be superimposed on underlying primary zoning districts. Development standards provided herein are intended to supplement those permitted in the underlying primary zoning district and in some cases may be more restrictive than those of the underlying zoning district. When the requirements of the underlying zoning district and the overlay district appear to be in conflict, the more restrictive shall apply.

(1) Except as specified by division (D) above, all uses which are permitted by right or are permitted by special exception in the underlying primary zoning districts are permitted by right or by special exception, as applicable, in the Airport Overlay District.

(2) Uses which are prohibited in the underlying primary zoning district are prohibited in the Airport Overlay District.

(F) *Communication and visibility interference prohibited.* Notwithstanding any other provisions of this section, no use may be made of land or water within the established Airport Overlay District in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way create a hazard, endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(G) *Miscellaneous provisions.* The following miscellaneous provisions apply to the Airport Overlay District.

(1) *Regulations not retroactive.* The regulations prescribed in the Airport Overlay District shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of adoption of the Airport Overlay District, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein

shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of adoption of the Airport Overlay District, and is diligently prosecuted.

(2) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure to become a greater hazard to air navigation, than it was on the effective date of adoption of the Airport Overlay District or any amendments thereto or than it is when the application for a permit is made.

(H) *Administration and enforcement.* It shall be the duty of the Building Inspector to administer and enforce this section as specified in § 156.100 of this chapter. No material change shall be made in the use of land, no structure shall be erected, altered or otherwise established in any zone hereby created unless a permit shall have been applied for and granted by the Building Inspector. Prior to issuance of the permit, the Board of Aviation Commissioner shall be notified on a form approved by the Plan Commission and Board of Aviation Commissioners.

(I) *Variances.* The Board of Zoning Appeals shall consider variance request from the provisions of this section according to the procedure § 156.104 and I.C. 36-7-4-918.5. In addition to the requirements of § 156.104 and I.C. 36-7-4-918.5, the application for variance shall be accompanied by a determination from the Board of Aviation Commissioners as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

(J) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Aviation Commissioners, this condition may be modified to require the owner to permit the city, at its own expense, to install, operate, and maintain the necessary markings and lights.
(Ord. 1468, passed 9-9-13)

§ 156.091 HOME OCCUPATIONS.

(A) *Purpose and intent.* It is the purpose and intent of this section to provide for certain types of home occupations to be conducted within a dwelling unit or accessory structure on the resident's premises. Two classes of home occupations are established, based upon the type and intensity of the home occupation. Accordingly, minimum standards have been established for each class of home occupation in order to assure the compatibility of home occupations with other uses permitted in the applicable district, and to preserve the character of residential neighborhoods.

(B) *Home occupations.* Home occupations shall not be permitted except in compliance with § 156.091 and other applicable law.

(C) *Application for home occupation.* An application for an administrative permit for a Type I home occupation or special exception permit for a Type II home occupation shall be signed by all owners and adult residents of the property in question, and filed with the Department on forms provided by the Department. The Director shall review the application and classify the proposed home occupation as a Type I or Type II, based upon:

(1) The established standards for Type I and Type II home occupations described in divisions (D) and (E) below; and

(2) General planning and zoning standards established by the Zoning Code.

(D) *Type I home occupations.*

(1) The following standards are applicable to all Type I home occupations:

(a) No person other than residents of the dwelling unit on the subject premises named in the application shall be engaged in the home occupation.

(b) No more than 20% of the total gross floor area of the dwelling unit shall be used for the home occupation. The home occupation may not utilize more than 50% of any one floor of the dwelling unit.

(c) No outdoor storage or display of products, equipment or merchandise is permitted.

(d) No retail sales shall be conducted on the premises.

(e) No publication or advertising shall use the residential address of the home occupation.

(f) Exterior evidence of the conduct of a home occupation is not permitted.

(g) The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.

(h) No equipment, process or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, electrical interference, or television or telecommunications interference, which is detectable to the normal senses outside the dwelling unit or accessory structure.

(i) No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.

(j) No specific outside entrance or exit for the home occupation shall be permitted.

(k) No sign shall be permitted.

(l) No use, storage or parking of tractor trailers, semi-trucks or heavy equipment (that is, construction equipment) shall be permitted on or about the premises.

(2) The following uses are examples of home occupations that may be classified as a Type I:

(a) Telephone answering and solicitation;

(b) Home crafts;

(c) Computer programming, desktop publishing;

(d) Typing or secretarial service;

(e) Painting, sculpturing or writing;

(f) Dressmaking, sewing or tailoring;

(g) Drafting, surveying service;

(h) Consulting services;

(i) Mail order business, not including retail sales from site; or

(j) Sales representative, office only.

(E) *Type II home occupation.*

(1) The following standards are applicable to all Type II home occupations:

(a) No more than two persons, other than the residents of the dwelling unit on the subject premises named in the application, may be engaged in the home occupation.

(b) No more than 25% of the total gross floor area of the dwelling unit shall be used for the home occupation. The home occupation may not utilize more than 50% of any one floor of the dwelling unit.

(c) No outdoor storage or display of products, equipment or merchandise is permitted.

(d) Retail sales are permitted only as an accessory use to the primary home occupation (that is, a beauty salon can sell shampoo and beauty products).

(e) Exterior evidence of the conduct of a home occupation is not permitted, except for one non-illuminated sign, not to exceed eight square feet, which must be mounted flat against the exterior wall of the dwelling unit.

(f) The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.

(g) No equipment, process or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, electrical interference, or television or telecommunications interference, which is detectable to the normal senses outside the dwelling unit or accessory structure.

(h) No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.

(i) A minimum of two off-street parking spaces, in addition to those required for the dwelling unit, shall be provided for use by patrons of the home occupation. The Board of Zoning Appeals may require additional off-street parking, based upon the use and location of the property.

(j) No use, storage or parking of tractor trailers, semi-trucks, or heavy equipment (that is, construction equipment) shall be permitted on or about the premises.

(2) The following uses are examples of home occupations that may be classified as a Type II:

- (a) Attorney office;
- (b) Insurance sales or broker;
- (c) Real estate sales or broker;
- (d) Jewelry repair;
- (e) Shoe repair;
- (f) Carpentry, cabinet making;
- (g) Ceramics that involve the use of a kiln;
- (h) Medical or dental office;
- (i) Catering or food preparation;

- (j) Pet grooming service;
- (k) Barber or beauty shop;
- (l) Photo developing, photo studio; or
- (m) Appliance repair.

(F) *General provisions.* All home occupations shall conform to the following standards:

(1) Approval of a home occupation is not transferable to a location other than that which was approved.

(2) In no case shall a home occupation be open to the public at times earlier than 7:00 a.m. or later than 9:00 p.m.

(3) All home occupations shall be subject to periodic inspections. Reasonable notice shall be provided to the permittee prior to the time requested for an inspection.

(4) The Director, in the case of an administrative permit for a Type I home occupation, or the Board of Zoning Appeals, in the case of a special exception permit for a Type II home occupation, may impose reasonable conditions necessary to protect the public health, safety and welfare, or to protect against a possible nuisance condition.

(5) Administrative permits issued by the Director, or special exception permits issued by the Board of Zoning Appeals, may be revoked by the issuing authority for cause after reasonable notice to the permittee and an opportunity for a hearing on the matter.

(6) Type II home occupations shall not commence until the applicant has produced a state plan release from the Division of Fire and Building Safety of the Indiana Homeland Security Department, or a document issued by the Division of Fire and Building Safety of the Indiana Homeland Security Department indicating that a state plan release is not required.

(7) Home occupations shall commence only after the receipt of an administrative permit if classified as a Type I, or a special exception permit if classified as a Type II.

(G) *Permit review process.* Applications for a home occupation shall be reviewed as follows:

- (1) Application filed, with authorization from property owner.
- (2) Review of application by the Director to determine classification as a Type I or Type II.

(3) If classified as Type I:

(a) The Director can approve or deny the application.

(b) If approved, an administrative permit for the home occupation shall be issued.

(c) The Director may impose reasonable conditions as part of the approval.

(d) The applicant may appeal to the Board of Zoning Appeals if the application is denied or if conditions are unacceptable. An appeal must be filed within ten days of the date of the Director's determination.

(4) If classified as Type II, the application shall be reviewed and treated as a special exception request.

(5) The standards set forth in divisions (D), (E) or (F) of this section shall be incorporated as minimum conditions for approval.

(H) *Enforcement.* In the event the Director determines that the operation of any home occupation is in violation of this chapter or any permit condition, notice shall be provided to the permittee, setting forth a description of the violation, corrective action required, and a date by which such corrective action must be accomplished. The permit may be revoked if not corrected in the manner and by the date specified in the notice, in accordance with revocation procedures applicable to special exceptions. In addition, violations of this section are subject to the penalties provided for in § 156.999. (Ord. 1517, passed 12-8-14)

ADMINISTRATION AND ENFORCEMENT

§ 156.100 BUILDING COMMISSIONER AND ZONING ENFORCEMENT OFFICER.

The Building Commissioner is designated as the officer to be responsible for enforcing this chapter. The Building Commissioner shall have the power and shall exercise the function prescribed by the state law and by the terms of all ordinances now in force or hereafter passed. The Building Commissioner shall be appointed and shall serve at the pleasure of the Mayor. His or her compensation shall be fixed in the annual city budget.

('86 Code, § 36-7-4-600, § 18) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.101 BUILDING PERMITS, CERTIFICATES OF COMPLIANCE, USE PERMITS.

(A) *Certificate of compliance.* No building or structure hereafter erected or structurally altered shall be occupied and used until a certificate of compliance has been issued by the Building Commissioner.

The certificate of compliance shall be issued only after the Building Commissioner makes a finding that the building or structure has been erected or structurally altered in conformance with the provisions of this chapter and other health and building laws and in accordance with the building permit. Certificate of compliance shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or alterations of such buildings shall have been satisfactorily completed. A record of all certificates shall be kept on file in the office of the Building Commissioner and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected.

(B) *Use permit.* No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, without a use permit having first been issued by the Building Commissioner. No such use permit shall be issued to make such change unless it is in conformity with the provisions of this chapter or amendments thereto hereafter duly enacted.

(C) *Refusal of permit.* The Building Commissioner shall be required to state reasons for the refusal of any permit upon demand of the applicant therefor. Written refusal may be delivered in person or by ordinary mail.

(D) *Effect.* The issuance of a permit shall in no case be construed as waiving any provision of this chapter.

(E) *Term.* An improvement location permit shall become void six months from the date of issuance unless substantial progress has been made by that date on the project described therein. If the Building Commissioner determines that substantial progress has been made at the end of six months on the project described in the permit, then the improvement location permit may be renewed for an additional six months upon application therefor, without the payment of an additional fee.

(F) A building permit shall be in writing and shall be issued to the applicant by the Building Commissioner. It shall at all times remain the property of the city. The permit shall be loaned to the applicant for the duration of the construction period anticipated. The Building Commissioner has the right and the authority to enter upon the real estate at any time for the purpose of inspecting the construction. Upon finding any violation of this chapter, the terms of the permit or any substantial variation of the building plan, apparent to the Building Commissioner upon which the permit was issued, such Building Commissioner shall have the right to remove the building permit. The owner, contractor or subcontractor shall not resume such construction until the item or items of non-compliance are eliminated or corrected and the permit reissued and properly displayed upon the premises.

(G) No building permit shall be issued to any applicant seeking to construct a dwelling unit or commercial building in Rural Residential Zone unless an appropriate permit is first obtained from the County Board of Health for the installation of a private sewage disposal system meeting the standards of regulations of the State Board of Health and county ordinances.

('86 Code, § 36-7-4-600, § 19) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84; Am. Ord. 1057, passed 11-13-01; Am. Ord. 1169, passed 11-9-04) Penalty, see § 156.999

§ 156.102 PLAN COMMISSION.

(A) The Plan Commission shall consist of such members as shall be provided, from time to time, by state law. Meetings shall be held at the call of the Chairperson and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its proceedings and other official actions which shall be of record. The minutes of the Plan Commission shall be open to public examination at reasonable hours. Expenses incurred by the Plan Commission are to be itemized and shall be borne by the city.

(B) The Commission shall initiate proposed amendments to this chapter, review all proposed amendments to this chapter and make recommendations to the Council as specified by law, review designs and plans for open areas to be used for automobile parking, review all applications for Planned Development Districts (PD) as required by § 156.059 of this chapter, review all designs and plans for shopping centers, and perform such other duties as required in this chapter and by the state laws.

(C) Members of the Plan Commission shall receive compensation at the rate of at least \$5 for each official meeting attended or such other sum in excess of \$5 per each official meeting attended as the Council may determine.

('86 Code, § 36-7-4-600, § 20(A)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.103 BOARD OF ZONING APPEALS.

(A) The Board of Zoning Appeals is hereby established. The Board shall consist of such members as shall be provided, from time to time, by state law. All meetings of the Board shall be open to the public and held at the call of the Chairperson and at such other times as the Board may determine. The Board shall keep minutes of the meeting showing the vote of each member upon every question decided by it, or as any member is absent or fails to vote, indicating such fact. Statements of fact shall be included in the minutes of each case heard and considered by it. The reason for recommending or denying an exception as herein provided shall also appear in the minutes. The Board shall adopt its own

rules of procedure, a copy of which and all amendments thereto shall be filed in the office of the Clerk/Treasurer. The minutes of the Board shall be open for public examination at reasonable hours. Expenses incurred by the Board of Appeals are to be itemized and shall be borne by the city.

(B) The members of the Board of Zoning Appeals shall receive compensation at the rate of at least \$5 for each official meeting attended or such other sum in excess of \$5 per official meeting attended as the Council may determine.

(C) The Board shall hear and decide appeals from, and review any order, requirement, decision, or determination made by the administrative official charged with the enforcement of this chapter. The Board of Zoning Appeals shall also hear all applications for variances to the provisions of this chapter as prescribed by law. The Board shall not grant a variance until a public hearing has been held by the Board of Zoning Appeals, pursuant to a notice published in accordance with IC 5-3-1. A majority of the members of the Board of Zoning Appeals shall constitute a quorum. No action of the Board is official, however, unless authorized by a majority of the Board.

(D) The Board of Zoning Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

(E) Appeals and reviews of the actions of the Board of Zoning Appeals shall be wholly governed by state law.

(F) *Stay of proceedings.* The appeal shall stay all proceedings and furtherance of the action appealed from unless the Commissioner certifies to the Board of Zoning Appeals after the notice of appeal has been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, which notice to the Building Commissioner, and all due causes shown. The Board of Zoning Appeals shall fix a reasonable time and place of the hearing of appeals and shall give notice thereof to the persons appealing and to the officer from whom the appeal is taken. It shall hear and decide the appeal within a reasonable time. At hearing, parties of interest may appear in person or by agent or attorney.

('86 Code, § 36-7-4-600, § 20(B)(1) - (6)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

§ 156.104 VARIANCES.

(A) The Board of Zoning Appeals may authorize in the manner provided by law, variations from the provisions of this chapter where there are practical difficulties or particular hardships in carrying out the strict letter of any of the provisions of this chapter relating to the use, construction or of buildings or structures or the use of land. However, no such variations shall be made, except in a specific case

and after public hearing before the Board of Zoning Appeals, pursuant to notice and after a report of the findings of fact by the Board of Zoning Appeals, as provided by state law.

(‘86 Code, § 36-7-4-600, § 20(B)(7))

(B) *Rules governing variances.* No variation shall be allowed:

(1) To permit a nonconforming use which will materially interfere with the use of adjoining premises in conformity with the regulations applicable to the use district in which it is located;

(2) To permit a billboard to be erected or maintained;

(3) To permit a nonconforming use in any residence district, excepting that when there are two or more nonconforming uses in the same block, a variation may be allowed to alter or remodel a family residence to provide for two dwelling units therein, to erect a two-family dwelling in a one-family district, and to erect, reconstruct, alter or remodel a building in a two-family district for an apartment house;

(4) To permit a nonconforming manufacturing district use in a business district, unless it is an extension for a permitted nonconforming use by enlarging a building or erecting additional buildings as part of one establishment upon a lot or lots adjoining a lot on which such nonconforming use exists, or unless a separate tract, the title of which was of record on March 3, 1969 is divided by a district boundary line, but such variation shall be limited to the use permitted in the adjoining district and shall not be extended more than 25 feet beyond the district boundary lines.

(‘86 Code, § 36-7-4-600, § 20(B)(8)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84) Penalty, see § 156.999

§ 156.105 WRITTEN COMMITMENTS.

(A) *Purpose, intent, and authority.*

(1) This section grants authority to the Salem Plan Commission and the Salem Board of Zoning Appeals to allow or require commitments in connection with the following approvals or actions, in compliance with applicable state statutes:

(a) I.C. 36-7-4-615 - Commitments in connection with zoning map changes pursuant to I.C. 36-7-4-608 and PDD district ordinances pursuant to I.C. 36-7-4-1500 et seq.

(b) I.C. 36-7-4-921 - Commitments in connection with variances, special exceptions, other actions by the Board of Zoning Appeals.

(2) The Plan Commission and the Board of Zoning Appeals have the authority to adopt the following types of rules, per I.C. 36-7-4-921 (which pertains to Board of Zoning Appeals variances, special exceptions, etc.), as amended: Rules governing the creation, form, recording, modification, enforcement, and termination of commitments; and Rules designating which specially affected person and classes of specially affected persons are entitled to enforce commitments.

(B) *Application.*

(1) When an owner of a parcel of real property or other applicant with the owner's consent applies for a special exception, special use, contingent use, or variance from the terms of the Zoning Ordinance, then the Board of Zoning Appeals may permit or require the property owner to make a written commitment concerning the use or development of that parcel.

(2) Division (C) below applies to commitments in connection with proposals submitted under I.C. 36-7-4-608 and proposals for a PDD district ordinance.

(C) *Commitments for rezoning or PDD proposal.* Pursuant to I.C. 36-7-4-615, the Common Council specifies the following for a written commitment required or allowed for a proposal to change the zone maps incorporated by referenced into the Zoning Ordinance (a rezoning proposal under I.C. 36-7-4-608) or a proposal for a PDD district ordinance (under I.C. 36-7-4-1500 et seq.).

(1) The Plan Commission may require or allow a written commitment either for a proposal submitted under I.C. 36-7-4-608 (zone map change) or proposal for a PDD district ordinance, or for both of these proposals, to the extent allowed by applicable law.

(2) If the Common Council adopts (as certified) the proposal submitted under I.C. 36-7-4-608 for the proposal for PDD district ordinance for which the Plan Commission required or allowed the written commitment, then the owner of the parcel shall record or cause the commitment to be recorded before the rezoning or PDD district ordinance can become effective.

(3) Once the commitment is recorded, the commitment may be modified or terminated only by a decision of the Plan Commission made at a public hearing after notice as provided by division (K) below. The request for modification or termination may be initiated by the property owner or by the Plan Commission. The Plan Commission may approve or disapprove modification or termination to the extent allowed by applicable law. However, pursuant to I.C. 36-7-4-615(b), a commitment required or allowed for a rezoning or PDD district ordinance terminates if the zoning for the parcel changes in the future.

(4) The enforcement provisions set forth in division (H) below apply to commitments for proposals for zone map changes and PDD district ordinances.

(5) The form of commitments for proposals for zone map change and PDD district ordinances shall be as determined by the Plan Commission pursuant to division (H) below.

(6) Divisions (E), (F), (I), (K) and (L) below are also applicable to commitments for proposals for zone map change and PDD district ordinances.

(D) *Standard forms.*

(1) The Plan Commission may adopt written commitment forms as the standard forms for written commitments which are permitted or required by the Plan Commission, including written commitments for zone map changes, and PDD district ordinances.

(2) The Board of Zoning Appeals may adopt written commitment forms as the standard forms for written commitments, which are permitted or required by the Board of Zoning Appeals.

(3) The appropriate standard form shall be used whenever a written commitment is permitted or required by the Plan Commission or Board of Zoning Appeals. When necessary, the standard forms may be modified in order to form the type of commitment needed and not already provided for in one of the standard forms. However, the basis of the standard forms shall be used, with the content modified only as need to conform to the type of commitment permitted or required. An otherwise modified form may be rejected by a majority vote of the Plan Commission or Board of Zoning Appeals (whichever body permitted or required the commitment).

(E) *Binding effect.*

(1) Unless modified or terminated as described in division (J) below, a written commitment that is permitted or required by the Plan Commission or Board of Zoning Appeals is binding on:

- (a) The owner of the parcel;
- (b) A subsequent owner of the parcel; and
- (c) A person who acquires an interest in the parcel.

(2) A written commitment that is permitted or required by the Plan Commission or Board of Zoning Appeals is binding on the owner of the parcel even if the commitment is unrecorded (see division (I) below on recording); however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment.

(F) *Effective date of commitment.*

(1) A written commitment permitted or required by the Plan Commission in connection with a written commitment permitted or required by the Board of Zoning Appeals shall take effect upon the approval of the special exception, special use, contingent use, conditional use, or zoning variance related to the commitment.

(2) A written commitment for a zone map change or a PDD district ordinance shall take effect upon the later of the adoption of the rezoning or PDD district ordinance or the recording of the commitment. However, the Zoning Ordinance will not become effective until the commitment has been recorded and all necessary legal requirements have been met.

(G) *Covenant running with the land.* A written commitment that is permitted or required by the Plan Commission or Board of Zoning Appeals shall be considered a covenant running with the land and shall bind all subsequent owners to its terms and conditions and any subsequent modification thereto made pursuant to this instrument, statutes of the State of Indiana, or ordinance of the City of Salem, Indiana.

(H) *Enforcement.* Written commitments permitted or required by the Plan Commission or Board of Zoning Appeals may be enforced jointly and severally by:

(1) The Plan Commission or Board of Zoning Appeals (whichever body permitted or required the commitment); and

(2) Owners of all parcels of ground adjoining all real estate within which the tract of real estate involved in the commitment is located, to a depth of 300 feet. The identity of such owners shall be determined from the records of the Office of the Washington County Auditor which list the current owners of record. For purposes of this division, the cutoff date for such determination shall be 12:00 noon on the date of filing for enforcement.

(I) *Recording.*

(1) Commitments shall be recorded in the Office of the Washington County Recorder.

(2) The Plan Commission or Board of Zoning Appeals shall require the owner of the parcel giving a written commitment to either record the commitment or authorize the city to record the commitment at the owner's expense.

(3) Commitments in connection with special exceptions, special uses, contingent uses, conditional uses, or zoning variances shall be recorded upon the granting of the approval. Commitments

in connection with zone map changes or PDD district ordinances shall be recorded as soon as possible after approval by the Common Council of the rezoning or PDD district ordinance. Such ordinance will not take effect until the commitment has been recorded.

(J) *Modification and termination.* A written commitment that is permitted or required by the Plan Commission or Board of Zoning Appeals may be modified or terminated only by a decision of the Plan Commission or Board of Zoning Appeals (whichever body permitted or required the commitment) made at a public hearing after notice as provided by division (K) below. The request for modification or termination may be initiated by the property owner or by the body that permitted or required the commitment. The body that permitted or required the commitment may approve or disapprove modification or termination to the extent allowed by applicable law. However, pursuant to I.C. 36-7-4-615(b), a commitment required or allowed for a rezoning or PDD district ordinance terminates if the zoning for the parcel changes in the future.

(K) *Public notice.* When the Plan Commission or Board of Zoning Appeals is going to consider modification or termination of an existing written commitment, notice of a public hearing shall be given in the following manner:

(1) *Newspaper.* Notice by publication shall be given by the petitioner in two newspapers of general circulation in the City of Salem and shall be published at least 30 days prior to the public hearing. A proof of publication affidavit from each publisher shall be submitted at least three days prior to the hearing.

(2) *Mail.* Written notice of the public hearing shall also be given by the petitioner to all interested parties or property owners by certified return receipt mail postmarked at least 30 days prior to the hearing. For purposes of notice given under this section, ***INTERESTED PARTIES OR PROPERTY OWNERS*** shall mean the owner(s) of the real estate giving the relevant commitment and the owners of all parcels of ground adjoining said real estate.

(L) *Validity of other land use restrictions.* This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.
(Ord. 1193, passed 6-14-05)

§ 156.999 PENALTY.

No person shall build or use any building or structure or use premises in the city for any purpose other than one permitted by the terms of this chapter in the area to which the same is located. Any

person who violates any provision of this chapter shall be fined not less than \$1 nor more than \$300. Each day a violation occurs or continues shall be deemed to constitute a separate ordinance violation. ('86 Code, § 36-7-4-600, § 15(U)) (Ord. 148, passed 8-3-53; Am. Ord. 413, passed 4-6-81; Am. Ord. 461, passed 8-1-83; Am. Ord. 480, passed 5-7-84)

**APPENDIX: TABLE OF LOT, YARD, LOT COVERAGE
AND HEIGHT REQUIREMENTS**

CHAPTER 157: LIGHTING

Section

- 157.01 Purpose
- 157.02 General requirements
- 157.03 Parking lot lighting
- 157.04 Street lighting
- 157.05 Lighting of new gasoline stations/convenience store aprons and canopies
- 157.06 Lighting of exterior display/sales areas
- 157.07 Lighting of outdoor recreation, performances, amusement facilities, events, and similar uses
- 157.08 Security lighting for business
- 157.09 Landscape lighting plan for business
- 157.10 Illuminated signs

§ 157.01 PURPOSE.

(A) The purpose of this chapter is to promote safety, security, aesthetic, harmonious development, and prevent nuisances associated with lighting, glare and sky glow while enhancing visibility, safety and security within the zoning jurisdiction of the city.

(B) It is recognized that inappropriate and poorly designed or installed outdoor lighting causes unsafe conditions, aesthetic nuisance, and results in unnecessary use of electric power. However, it is also recognized that some outdoor lighting is appropriate in certain areas. Lighting is only one element of an effective well-planned security system that may include among other elements gates, locks, detection devices, guards, and surveillance devices such as videos. These regulations are established to ensure appropriate lighting, security and safety while minimizing its undesirable side effects.

(Ord. 1158, passed 9-14-04)

§ 157.02 GENERAL REQUIREMENTS.

(A) Design standards.

(1) Lighting shall not be confused with warning, emergency, or traffic signals.

(2) Background spaces such as parking lots and similar uses shall be lighted for adequate safety and as unobtrusively as possible to meet functional safety needs to protect people and property.

(3) Foreground spaces such as building entrances, sitting areas and similar uses shall utilize local lighting that lights the area without glare or creation of a nuisance.

(4) Outdoor display lots for vehicle sales and leasing shall comply with this chapter. In addition, display fixtures illumination may be dusk to dawn.

(5) In any case, the Building Commissioner may require shields, reflectors, louver, lens, or other modifications if visual discomfort nuisance or glare results from the lighting or if glare is caused by a combination of lighting and surrounding darkness.

(6) Unless otherwise specified, maximum on-site lighting levels shall not exceed 10 foot-candles, except for loading and unloading platforms where the maximum shall be 20 foot-candles, providing that the purposes and intent of this chapter is met.

(7) Unless otherwise specified light levels measured 20 feet beyond the property line of the development site [adjacent to residential uses or public rights-of-way] shall not exceed 0.1 foot-candle as a direct result of the on-site lighting.

(8) The use of laser and searchlights is discouraged and may only be approved as a temporary special use by the Board of Zoning Appeals.

(B) Development Plan. When the outdoor lighting installation or replacement is part of a proposal for which development plan approval is required by the zoning ordinance, the Building Commissioner shall review and as appropriate, approve the lighting installation as part of the development plan approval. In the event a development plan is not required, an exterior lighting plan in conformance with this chapter shall be submitted for review and, if appropriate, is approved by the Building Commissioner.

(C) Replacement of eight or fewer fixtures. Outdoors lighting installations involving the installation or replacement of eight or fewer lighting fixtures [free standing or facade mounted] may be reviewed and approved by the Building Commissioner.

(D) Exterior lighting plan. The applicant shall submit to the Building Commissioner sufficient information, in the form of an overall exterior lighting plan, to enable the Building Commissioner to determine that the applicable provisions of this chapter will be satisfied. The lighting plan shall include at least the following:

(1) The lighting plan shall be drawn to a scale sufficient for showing buildings, landscaping, parking areas, and all proposed exterior lighting fixtures.

(2) Specifications shall be submitted with the lighting plan for all proposed lighting fixtures including photometric data, designation as Illuminating Engineering Society of North America [IESNA] “cut-off” fixtures, Color Rendering Index [CRI] of all lamps [bulbs], and provide other descriptive information, as may be reasonably, required by the Building Commissioner.

(3) Proposed mounting height of all exterior lighting fixtures.

(4) A photometric report sufficient for analyses with luminance level diagrams showing that the proposed installation conforms to the lighting level standards in this chapter, including light trespass 10 and 20 feet beyond property line.

(5) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the luminance levels on the walls, and the aiming points for any remote light fixtures.

(E) Timers, dimmers, sensors. Wherever practicable, lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate lighting not needed for safety and security.

(F) Modifications, expansions, replacements. Expansions, additions, or replacements to outdoor lighting installations shall be designed to avoid harsh contrasts in color and/or lighting levels.

(G) Electrical service. Electrical service to outdoor lighting poles and fixtures shall be mounted directly on utility poles. In cases of lighted signage, the height, wiring, supports, and any use of glass shall be installed, operated and maintained in a manner that is adequate and safe.

(H) Exemptions. Traffic control lighting fixtures to include street lighting erected by or at the instance and request of a governmental entity.

(I) Mounting height. For the purposes of these regulations, the mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the bottom of the lighting fixture [i.e. luminary]. In the case of earth mounding inconsistent with the grade level of land surrounding the fixture, which increases the elevation of the fixture, shall be included in the measurement of the fixture height at normal grade level. The minimum mounting height should be less than one-half the maximum projection distance from a single luminary assembly.

(J) Holiday lighting. Holiday lighting shall be exempt from the provisions of this chapter, provided that such lighting does not create a nuisance, or glare on adjacent streets, properties, sky glow, or confused with warning, emergency or traffic signals.

(Ord. 1158, passed 9-14-04; Am. Ord. 1194, passed 6-14-05)

§ 157.03 PARKING LOT LIGHTING.

Parking lot lighting shall be designed to provide sufficient lighting to ensure adequate vision, safety, security and comfort in parking areas, while not causing glare or direct illumination onto adjacent properties, streets or create sky glow.

(A) Cut-off lights. All lighting fixtures serving parking lots shall be cut-off fixtures flat lensed, vertical down light or redirected by reflectors or refractors.

(B) Parking area lighting height standards. Fixtures shall not exceed 40 feet in height, except in the I-1 and I-2 zone districts the height shall not exceed 25 feet.
(Ord. 1158, passed 9-14-04)

§ 157.04 STREET LIGHTING.

(A) General street lighting standards.

(1) General levels of illumination shall be consistent with this chapter and guidelines published by the IESNA. The strictest guideline shall govern.

(2) Fixed lighting shall be designed and installed, in a manner that provides for adequate security, safety, avoidance glare that would affect driving performance or nuisance to adjacent properties.

(B) Fixtures. All street lighting fixtures shall be standard fixtures used by the applicable electric utility serving the installation. If necessary, as determined by the Building Commissioner, fixtures shall include shields to minimize up light, spill light, glare, sky glow, or unnecessary diffusion of light on adjacent properties.

(C) Location.

(1) Streetlights shall be in the public right-of-way.

(2) If the street has a sidewalk along one side, the streetlights shall be located on the side of the street with the sidewalk.

(3) Unless otherwise required by the Building Commissioner, target light levels shall meet the requirements of this chapter or be determined by procedures developed by the IESNA.

(4) In any event, the Building Commissioner shall determine the adequacy of the target light level. The Building Commissioner may require shields, reflectors, louver, lens, or other modifications

if visual discomfort nuisance, or glare results from the lighting or if glare is caused by a combination of lighting and surrounding darkness.

(5) Street light standards shall not exceed 30 feet in any zone district.

(6) In the case of any subdivision of land, spacing of streetlights shall be area lights aimed straight down to create a circle of light. Spacing of poles shall be determined by a photometric plan showing lighting levels and luminary layout. Luminance at ground level may range from 0.2 to 9.0 foot candles.

(Ord. 1158, passed 9-14-04)

§ 157.05 LIGHTING OF NEW GASOLINE STATIONS/CONVENIENCE STORE APRONS AND CANOPIES.

Lighting levels on gasoline station/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall be adequate for safety and security but not as illumination such that brilliant light itself is used to attract attention to the businesses. Signs allowed under the appropriate section of the zoning ordinance shall be used for that purpose. Gasoline stations/convenience stores out of service for one year or more shall comply with this chapter.

(A) Lighting of areas used for parking or storage. Unless otherwise required for safety or security, areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth in the section titled "Parking Lot Lighting". If no gasoline pumps are provided, the entire apron shall be treated as a parking area.

(B) Lighting associated with pump islands under canopies. Areas around the pump islands and under canopies shall be illuminated so that the minimum horizontal luminance at grade level is at least one foot-candle and no more than 5.5 foot-candles. The uniformity ratio [ratio of average to minimum luminance] shall be no greater than 4:1, which yields an average illumination level of no more than 22 foot-candles.

(C) Light fixtures mounted on canopies. Light fixtures shall be mounted on canopies so that light is restrained to no more than 85 degrees from vertical.

(D) An alternative to recessed ceiling lights on canopies. Indirect lighting may be used where light is beamed upward and then reflected down from the underside of the canopy. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

(E) Fascia lights. Lights shall not be mounted on the top or sides [fascias] of the canopy, and the sides [fascias] of the canopy shall not be illuminated.

(Ord. 1158, passed 9-14-04; Am. Ord. 1194, passed 6-14-05)

§ 157.06 LIGHTING OF EXTERIOR DISPLAY/SALES AREAS.

Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the business. Signs allowed under the appropriate section of the zoning ordinance shall be used for that purpose. On the development or site plan, the applicant shall designate areas to be considered display/sales areas and areas to be used as parking or passive vehicle storage areas. The Building Commissioner must review and if satisfactory, approve this designation. In no case shall safety or security be compromised.

(A) Parking or vehicle storage. Areas designated as parking or passive vehicle storage areas shall be illuminated in accordance with the requirements for parking areas regulated in the section titled "Parking Lot Lighting."

(B) Exterior displays or sales area. Areas designated as exterior display or open sales areas shall be illuminated so that the average horizontal illumination at grade level does not exceed 4.0 foot-candles, and the ratio of average to minimum illumination shall not exceed 4:1. The average and minimum shall be computed for only that area designated as exterior display or open sales area. Light fixtures located less than a distance equal to three times the fixture mounting height from a residential or public right-of-way property line, or two times the fixture mounting height from other property lines, shall be fully shielded with respect to that property line. Such shielding shall obstruct a line of sight to the bulb with an opaque material when viewed from the property line.

(C) Display area fixtures. Light fixtures shall be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent streets or properties.

(D) Height of fixtures. Fixtures shall be mounted no more than 40 feet above grade, and mounting poles shall be located inside the illuminated area.

(Ord. 1158, passed 9-14-04)

§ 157.07 LIGHTING OF OUTDOOR RECREATION, PERFORMANCES, AMUSEMENT FACILITIES, EVENTS, AND SIMILAR USES.

Outdoor nighttime uses or events [concerts, amusement facilities, recreation including athletic contests and the like] have unique lighting needs. Illumination levels vary, depending on the nature of the event. The regulations in this chapter are intended to allow adequate lighting for such uses while minimizing sky glow, reducing glare and unwanted illumination of surrounding streets and properties, and reducing energy consumption. In no case shall safety or security be compromised.

(A) Design plan. An exterior lighting design plan shall be submitted which shows in detail the proposed lighting installation. The design plan shall illustrate the method of satisfying lighting requirements of various areas and how those requirements will be met.

(B) Dual system. The main lighting of the event, spotlighting, floodlighting or and the like, shall be turned off no more than three hours after the end of the event. A second lighting system may be used, as long as it does not produce glare or spill onto adjoining properties. Dusk to dawn lights may be used for this purpose.

(C) Primary play area. Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be specified, mounted, and aimed so that their beams fall within the primary playing area and immediate surroundings, and so that no direct illumination is directed off the site.

(D) Parking area. Lighting for parking areas shall meet the requirements in the section titled "Parking Lot Lighting."

(E) Pedestrian area. Areas intended solely for pedestrian circulation shall be provided with a minimum level of illumination that provides safety and security.

(F) Security lighting. Security lighting shall meet the requirements suggested in this chapter.
(Ord. 1158, passed 9-14-04)

§ 157.08 SECURITY LIGHTING FOR BUSINESS.

The purpose and need for security lighting [i.e. lighting for safety, security of persons and property] must be demonstrated as part of an overall security plan which should includes at least illumination, surveillance, and response, and which delineates the area to be illuminated for security purposes. Lighting shall not be the sole source of providing safety or security. In no case shall safety or security be compromised.

(A) Additional application materials. In addition to the application materials set forth in the requirements of this chapter, applications for security lighting installations shall include a written description of the need for and purposes of the security lighting, a development plan showing the area to be secured and the location of all security lighting fixtures, specifications of all fixtures, the horizontal and vertical angles in which light will be directed, and adequate cross-sections showing how light will be directed only onto the area to be secured.

(B) Shielding of light fixtures. All security lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and not cast on other areas. In no case shall lighting be directed above a horizontal plane through the top of the lighting fixture, and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways.

(C) Security lighting of vertical surfaces. Security lighting may illuminate vertical surfaces [e.g. building facades and walls] up to a level nine feet above grade or nine feet above the bottoms of doorways or entries, whichever is greater.

(D) Perimeter security lighting. Unless otherwise necessary, security lights intended to illuminate a perimeter [such as a fence line] may include motion sensors and be designed to be off unless triggered by an intruder located within five feet of the perimeter.

(E) Lighting of building facades and landscaping for security. With the exception of structures having exceptional symbolic [i.e. churches and/or public buildings] or historic significance, exterior-building facades shall not be illuminated. When buildings having symbolic or historic significance are to be illuminated, the Building Commissioner shall review and as appropriate approve a site or development plan. Such site or development plan shall conform to the following provisions:

(1) Unless documentation is provided to the Building Commissioner that additional foot-candles are needed, the maximum illumination on any vertical surface or angular roof surface shall not exceed five foot-candles.

(2) Lighting fixtures shall be carefully located, aimed, and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed toward adjacent property, streets or roads.

(3) Lighting fixtures mounted on the building and designed to “wash” the facade with light are preferred.

(4) To the extent practicable, lighting fixtures shall be directed downward [i.e. below the horizontal] rather than upward or outward.

(5) When approved, only fully shielded wall mounted luminaries shall be installed.
(Ord. 1158, passed 9-14-04; Am. Ord. 1194, passed 6-14-05)

§ 157.09 LANDSCAPE LIGHTING PLAN FOR BUSINESS.

When landscaping is to be illuminated, the Plan Commission shall first approve a landscape lighting plan that presents the purpose and objective of the lighting, shows the location of all lighting fixtures, what landscaping each is to illuminate, and demonstrates that the installation will not generate excessive light levels, cause glare, or direct light beyond the landscaping into the night sky or adjoining property.
(Ord. 1158, passed 9-14-04)

§ 157.10 ILLUMINATED SIGNS.

Illumination of signs shall be in conformance with the stricter of this chapter or section of the zoning ordinance titled “Sign Regulations.” It is the intent of this chapter to allow illuminated signs, but to ensure that they do not create glare, nuisance or unduly illuminate the surrounding area. The applicant shall provide the Building Commissioner with sufficient technical and design information to demonstrate that the following provisions are met.

(A) Externally illuminating signs shall be carefully located, aimed, and shielded so that light is directed only onto the sign facade. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.

(B) Light fixtures illuminating signs shall be of a type such that the light source or bulb is not directly visible from adjacent streets, roads, or properties.

(C) To the extent practicable, fixtures used to illuminate signs shall be top mounted and directed downward [i.e. below the horizontal].

(Ord. 1158, passed 9-14-04)

CHAPTER 158: INTERNATIONAL PROPERTY MAINTENANCE CODE

Section

- 158.01 International Property Maintenance Code adopted by reference
- 158.02 Amendments and revisions

§ 158.01 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED BY REFERENCE.

That a certain document, three copies of which are on file in the office of the Salem Building Commissioner, being marked and designated as the International Property Maintenance Code, 2003 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Salem, Indiana for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of said Property Maintenance Code on file in the office of the Salem Building Commissioner are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in § 158.02. (Ord. 1171, passed 11-9-04; Am. Ord. 1264, passed 9-11-07)

§ 158.02 AMENDMENTS AND REVISIONS.

The following sections are hereby revised:

(A) Section 101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Salem, Indiana, hereinafter referred to as “this code”.

(B) Section 101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the Indiana Building Code (675 IAC 13) and the Indiana Residential Code (675 IAC 14).

(C) Section 102.3 Application of Other Codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Indiana Building Code (675 IAC 13) and the Indiana Residential Code (675 IAC 14). Nothing in this code shall be construed to cancel, modify or set aside any provision of the Indiana Building Code (675 IAC 13) and the Indiana Residential Code (675 IAC 14).

(D) Section 103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule. [Deferred until future ordinance.]

(E) Section 201.3 Terms Defined in Other Codes. Where terms are not defined in this code and are defined in the Indiana Building Code (675 IAC 13), the Indiana Residential Code (675 IAC 14), the Indiana Fire Code (675 MC 22), the Indiana Plumbing Code (675 IAC 16), the Indiana Mechanical Code (675 IAC 18) or the Indiana Electrical Code (675 IAC 17), such terms shall have the meanings as ascribed to them as in those codes.

(F) Section 304.14 Insect Screens. During the period of May 1 to November 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans are employed.

(G) Section 401.3 Alternative Devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Indiana Building Code (675 IAC 13) and the Indiana Residential Code (675 IAC 14) shall be permitted.

(H) Section 505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Indiana Plumbing Code (675 IAC 16).

(I) Section 602.2 Residential Occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F(20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in the Indiana Residential Code (675 IAC 14). Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Exception: In areas where the average monthly temperature is above 30°F(-1°C), a minimum temperature of 65°F(18°C) shall be maintained.

(J) Section 602.3 Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to May 1 to maintain a temperature of not less than 68°F(20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in the Indiana Building Code (675 IAC 13).

2. In areas where the average monthly temperature is above 30°F(-1°C), a minimum temperature of 65°F(18°C) shall be maintained.

(K) Section 602.4 Occupiable Work Spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 1 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

(L) Section 604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the Indiana Electrical Code (675 IAC 17). Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

(M) Section 702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Indiana Fire Code (675 IAC 22).

(N) Section 702.2 Aisles. The required width of aisles in accordance with the Indiana Fire Code (675 IAC 22) shall be unobstructed.

(O) Section 702.3 Locked Doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the Indiana Building Code (675 IAC 13) and the Indiana Residential Code (675 IAC 14).

(P) Section 704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Indiana Fire Code (675 IAC 22).

(Q) Chapter 8: Adoption of Rules by Reference. Pursuant to I.C. 22-13-23(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include any later amendments to those rules.

(a) Article 13 – Building Codes

(1) Fire and Building Safety Standards.

(2) Indiana Building Code.

(b) Article 14 – Indiana Residential Code

(c) Article 16 – Indiana Plumbing Code

(d) Article 17 – Indiana Electrical Code

(e) Article 18 – Indiana Mechanical Code

(f) Article 19 – Indiana Energy Conservation Code

(g) Article 20 – Indiana Swimming Pool Code

(h) Article 22 – Indiana Fire Code

(i) Article 24 – Migrant Day Care Nursery Fire Safety Code

(j) Article 25 – Indiana Fuel Gas Code.

(Ord. 1171, passed 11-9-04; Am. Ord. 1264, passed 9-11-07)

CHAPTER 159: STORM DRAINAGE, EROSION CONTROL, AND SEDIMENT CONTROL

Section

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GENERAL PROVISIONS**§ 159.001 TITLE.**

This chapter will be known and may be cited and referred to as the “Storm Drainage, Erosion Control, and Sediment Control Ordinance” of the City of Salem, Indiana.
(Ord. 1246, passed 2-13-07)

§ 159.002 APPLICABILITY.

This chapter applies to all development, which requires official review and approval of any agency of the city, or the Plan Commission. Projects that consist of one single-family dwelling, one two-family dwelling, or their accessory structures, are not subject to the requirements of this chapter. Recognizing

that land-disturbing activities may cause soil loss, siltation, and degradation of natural resources, the erosion control standards of this chapter are applicable to all land-disturbing activities that are necessary for any development regulated by this chapter.

(Ord. 1246, passed 2-13-07)

§ 159.003 CONFLICTING ORDINANCE.

The provisions of this chapter are additional requirements to minimum standards required by other ordinances of the city. In the case of conflicting requirements, the most restrictive apply.

(Ord. 1246, passed 2-13-07)

§ 159.004 POLICY.

Streams and drainage channels serving the city and within the jurisdiction of the Plan Commission may not have sufficient capacity to receive and convey storm water runoff resulting when land use changes from underdeveloped or agricultural use to a more urbanized use. In addition, deposits or sediment from developments during and after construction can reduce capacities of storm sewers and drainage facilities and result in damages to receiving lakes and streams. Therefore, the Plan Commission must require that all new development, redevelopment and other new construction in Plan Commission jurisdiction store storm water runoff and provide for its controlled release, except as exempted in § 159.002. The storm water release rate of a 100-year storm event from development, redevelopment, and new construction must not exceed the storm water runoff from a ten-year storm event from the land area prior to the new development, redevelopment, or new construction or the capacity of its drainage outlet, whichever is more restrictive. There may be certain circumstances where detention is not justified or may be detrimental to the overall drainage basin. The Plan Commission may waive detention requirements in these cases as provided in this chapter.

(Ord. 1246, passed 2-13-07)

§ 159.005 PERMITS FOR CONSTRUCTION IN A FLOODWAY.

The 1945 Flood Control Act (I.C. 13-2-22) of the state prohibits the construction of abodes or residences in or on a floodway. Prior approval of the Indiana Department of Natural Resources is required for any type of construction, excavation, or filling in or on a floodway. All applications made to, and granted approval by, the Indiana Department of Natural Resources do not in any way relieve the owner of the necessity of securing easements or other property rights, permits or approvals from affected property owners and local, state, and federal agencies.

(Ord. 1246, passed 2-13-07)

§ 159.006 WETLANDS.

Landowners and/or developers must notify and make applications to all appropriate state and federal agencies with authority for wetland protection. In cases where federal or state jurisdictional wetlands have been determined to exist, those wetland areas and boundaries must be indicated on preliminary and final drainage plans. Neither the city nor the Plan Commission will make determinations of the accuracy of delineation or extent of jurisdictional wetlands. Approvals required by this chapter may be deferred until wetland-related approvals have been obtained.

(Ord. 1246, passed 2-13-07)

§ 159.007 ADEQUATE DRAINAGE OUTLETS.

(A) All projects subject to this chapter must provide drainage outlets, whose adequacy is based upon the following standards:

(1) Use of the outlet will not increase the velocity or rate of outflow above that allowed by this chapter;

(2) The outlet must be approved by all involved regulatory agencies; and

(3) Use of the outlet will not cause hardship or compound existing problems.

(B) The following outlets will generally not be deemed to be adequate:

(1) An outlet that is not legally and physically accessible and maintainable;

(2) Overland flow that is not a watercourse as defined in § 159.021;

(3) Existing or future roadside ditches, unless specifically approved;

(4) Agricultural field tiles for surface water; and

(5) Railroad side ditches without adequate improvements, unless specifically approved.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.008 COMPLIANCE WITH 327 IAC 15-5.

All land-disturbing activities that disturb one acre or more in total must comply with 327 IAC 15-5 (rule 5) “Storm Water Runoff Associated with Construction Activity.” It is the responsibility of the landowner or developer to determine if this rule applies to his or her project. The Plan Commission will

make no determination of the applicability of this rule to individual projects. Copies of notice of intent (NOI) and notice of sufficiency letters must also be filed with the Plan Commission prior to commencement of the land-disturbing activity.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.009 COMPLIANCE WITH I.C. 14-27 AND I.C. 14-28.

It is the responsibility of the landowner or developer to determine if the provisions of I.C. 14-27 “Levees, Dams, and Drainage” and/or I.C. 14-28 “Flood Control” are applicable to his or her project. The Plan Commission will make no determination of the applicability of this rule to individual projects. (Ord. 1246, passed 2-13-07)

§ 159.010 COMPLIANCE.

In addition to the requirements of this chapter, compliance with the requirements set forth in other applicable ordinances with respect to submission and approval of primary and secondary subdivisions, site plan review, improvement plans, building and zoning permits, construction inspections, appeals, and similar matters, and compliance with applicable state statutes and regulations, is required.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.011 USER FUND.

(A) There is hereby established the Storm Water Drainage User Fee Fund to be maintained by the Clerk-Treasurer.

(B) The user fee shall be paid by all persons making application to the Plan Commission for the approval of the drainage portion of any subdivision plan or the approval of any separate drainage plan. Application fees (the “user fee”) shall be as follows:

New construction on property zoned for multi-family housing, business, or industrial land use	\$2,000
Subdivision	\$700 plus a sum equal to \$100 per lot for each lot within a proposed subdivision plat or for each lot in a development covered by a drainage plan.

(C) The fee shall be paid at the time plans are submitted to the Plan Commission for review and shall be paid before the Plan Commission review of any plan.

(D) User fees shall be deposited to the Non-Reverting Storm Water User Fee Fund.

(E) User fees are non-refundable.

(F) The User Fee Fund shall be subject to appropriation by the City Council and may be used only for the planning, design, construction, maintenance and operation of storm water facilities. The Storm Water User Fee Fund is not a part of the city General Fund.

(Ord. 1246, passed 2-13-07)

DEFINITIONS

§ 159.020 INTERPRETATION OF TERMS OR WORDS.

For the purpose of this chapter, certain terms or words are defined. The words and terms used must be interpreted as follows:

(A) The word ***PERSON*** includes a firm, association, organization, partnership, trust, company, corporation, or other legal entity, as well as an individual;

(B) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular;

(C) The word ***MUST*** is a mandatory requirement; the word ***MAY*** is a permissive requirement; the word ***SHOULD*** is a preferred requirement;

(D) The words ***USED*** or ***OCCUPIED*** include the words ***INTENDED***, ***DESIGNED***, ***CONSTRUCTED***, ***CONVERTED***, ***ALTERED***, or ***ARRANGED*** to be used or occupied;

(E) The word ***LOT*** includes the words ***TRACT***, ***PLOT*** or ***PARCEL***; and

(F) Any word or term not defined herein must be given a meaning found in an English dictionary of common use.

(Ord. 1246, passed 2-13-07)

§ 159.021 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHANNEL. A natural or artificial watercourse which periodically or continuously contains moving water or which forms a connecting link between two bodies of water. It has a defined bed and banks, which serve to confine the water.

COMPENSATORY STORAGE. An artificial volume of storage within a floodplain used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain.

CULVERT. A closed conduit used for the passage of surface drainage water under a roadway, railroad, canal or other impediment.

DETENTION STORAGE. The temporary detaining or storage of storm water in storage basins under predetermined and controlled conditions.

DRAINAGE AREA. The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered to be the drainage area.

DRY BOTTOM DETENTION BASIN. A drainage facility constricted to restrict the runoff of storm water to a prescribed maximum rate, and to detain for a specified period of time the excess waters that accumulate upstream from the outlet. The facility is designed to be completely dewatered after having provided its planned detention of runoff during a storm event.

EROSION. The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

EROSION AND SEDIMENT CONTROL MEASURE. A practice or a combination of practices to control erosion and resulting off-site sedimentation.

EROSION AND SEDIMENT CONTROL PLAN. A written description and drawings of pertinent information concerning erosion and sediment control measures designed to meet the requirements of this chapter.

FLOOD ELEVATION. The maximum level of high waters for a flood of a given return period and rainfall duration.

FLOOD or FLOODWATER. Water that overflows the banks of a lake or watercourse.

FLOOD HAZARD AREA. Any floodplain, floodway, floodway fringe, or any combination which is subject to inundation by the regulatory flood elevation or any floodplain as delineated by Zone A on the current Flood Hazard Boundary Map of the Federal Emergency Management Agency.

FLOODPLAIN. The area adjoining the river or stream that has been or may be covered by floodwaters. It consists of both the floodway and the floodway fringe.

FLOOD PROTECTION GRADE. An elevation that is a specific distance above the regulatory flood elevation as established by agencies having jurisdiction.

FLOODWAY. See **REGULATORY FLOODWAY**.

FLOODWAY FRINGE. That portion of the floodplain lying outside the floodway that is inundated by the regulatory flood.

FOOTING DRAIN. A drain pipe installed around the exterior of a basement wall or foundation or located in a crawl space to prevent water from entering a basement or crawl space.

GRADIENT. The inclination or slope of a channel, conduit or natural ground surface expressed as a ratio of the vertical rise or fall to the corresponding horizontal distance.

IMPROVEMENT LOCATION PERMIT. A permit stating that the proposed erection, construction, enlargement or moving of a building or structure complies with the provisions of the Zoning Ordinance.

INLET. An opening into a storm sewer system for the entrance of surface storm water runoff, more completely described as a **STORM SEWER INLET**.

LAND-DISTURBING ACTIVITY. Any man-made change of the land surface including removing vegetative cover, excavating, filling, transporting, and grading. It includes any activity requiring a Plan Commission improvement location permit.

MANHOLE. Storm sewer structure through which a person may enter to gain access to a storm sewer or enclosed structure. A **MANHOLE** may also be an inlet for the storm sewer system.

OUTFALL. The point or location where storm runoff discharges from a sewer, channel or detention facility.

PEAK FLOW. The maximum rate of flow of water at a given point in a channel or conduit resulting from a specified storm or flood of a given return period or duration.

PERIMETER DRAIN. A tile drain located around an absorption field.

POND. See **WET BOTTOM RETENTION BASIN**.

RAINFALL INTENSITY. The rate of rainfall expressed as the amount of rain occurring within a given duration, normally expressed in inches per hour.

REGULATED AREA. All of the land under the jurisdiction of the Plan Commission.

REGULATORY FLOOD. A flood with a peak having a probability of occurrence of 1% in any given year, which is commonly referred to as 100-year flood as calculated by a method and procedure

which is acceptable to the Plan Commission. If a permit for construction in the floodway is required by the Indiana Department of Natural Resources, the regulatory peak discharge must be calculated by the method and procedure acceptable to the Plan Commission and the Indiana Department of Natural Resources.

REGULATORY FLOODWAY. The channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the peak flow of the regulatory flood of any river or stream.

RELEASE RATE. The amount of water released from a drainage facility per unit of time.

RETURN PERIOD. The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a 1 % probability of being equaled or exceeded in any one year.

RUNOFF. The portion of precipitation from such sources as rainfall, snow melt, or irrigation water that flows over or under the ground's surface and arrives at the point of consideration as surface water.

RUNOFF COEFFICIENT. A factor in the rational formula that relates the ratio of peak runoff to rainfall and considers such factors as ground cover, soil types, and watershed configuration.

SEDIMENT. Material of soil and rock origin transported, carried, or deposited by water.

SINKHOLE. Any closed depression in a limestone region formed by the removal of water, surface soil, rock or other material that is connected to a cavern or underground passage. The sinkhole drainage area shall include any area that contributes surface water directly to the sinkhole.

SIPHON. A closed conduit, a portion of which lies above the hydraulic grade line resulting in a pressure less than atmospheric and requiring a vacuum within the conduit to start flow. An inverted siphon is used to carry flow under an obstruction.

SITE. The entire area included in the legal description of the land on which the land-disturbing activity is proposed in the permit application.

SPILLWAY. A waterway in or about a hydraulic structure for the escape of the excess water.

STILLING BASIN. A structure used to dissipate the energy and/or velocity of flowing water.

STORAGE DURATION. The length of time that water may be stored in any drainage facility.

STORM SEWER. A closed conduit for conveying collected storm water.

SUBSURFACE DRAIN. A tile drain installed for the purpose of lowering the ground water table.

WATERCOURSE. Any natural or man-made drainage way having a defined channel and banks into which storm water runoff or floodwaters flow either regularly or intermittently.

WATERSHED. See **DRAINAGE AREA**.

WET BOTTOM RETENTION BASIN. A basin designed to retain a permanent pool of water plus capacity to detain and release excess runoff.

WETLANDS. Those areas which have hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence to vegetation typically adapted for life in saturated soil condition. Wetlands generally include swamps, marshes, bogs, and similar areas.
(Ord. 1246, passed 2-13-07)

DRAINAGE, EROSION, AND SEDIMENT CONTROL PLAN PROCEDURES

§ 159.030 INFORMATION REQUIREMENTS.

(A) The applicant must submit, to the Plan Commission, drainage calculations detailing runoff before and after the proposed project is constructed, which demonstrate compliance with this subchapter. The applicant must submit a completed Plan Commission Review Checklist found in Appendix A at the end of this chapter. The applicant must submit two sets of:

(1) A drainage plan; and

(2) An erosion control and sediment control plan of sufficient detail and clarity to allow the Plan Commission to evaluate project compliance with this subchapter.

(B) The maximum sheet size is 24 inches by 36 inches and as much information as possible should be shown on as few sheets as possible. The plans must be prepared under the supervision of and certified by a registered land surveyor or a professional engineer appropriately licensed by the state.
(Ord. 1246, passed 2-13-07)

§ 159.031 SITE PLAN AND EROSION CONTROL AND SEDIMENT CONTROL PLAN REQUIREMENTS.

The plans submitted must include the following information:

(A) *Existing conditions.*

- (1) Project name, developer, project engineer or surveyor, their addresses and telephone numbers, legal description, date of plans and any revisions, scale of plan, and north point;
- (2) Area vicinity map detailing project environs, current zoning, adjoining property owners, and street lines within 1,000 feet of the project boundaries;
- (3) Topography based on mean sea level elevation at a minimum one-foot interval for the project site and any adjoining areas whose topography may affect project drainage. If the drainage area is extensive, an additional map of sufficient clarity must be provided;
- (4) The location of existing streams, lakes, ponds, watercourses, and other flood water runoff channels, the extent of the floodplain at the established 100-year flood elevation, and the limits of the floodway, all properly identified;
- (5) The existing location of sinkholes, surface and subsurface drains, inlets, and outfalls, easements that are visible or of record, existing seeps, springs, and wells that are visible or of record;
- (6) Existing storm and sanitary sewers, inlets, or outfalls, existing septic tank systems, and treatment plant outlets and utilities;
- (7) Existing structures;
- (8) Identification of jurisdictional wetlands;
- (9) Boundary and acreage of project site indicated by a heavy solid line based on a traverse with angular and linear dimensions; and
- (10) Other significant conditions of the area proposed to be improved.

(B) *Site improvements.*

- (1) Location and finished floor elevations for all improvements;
- (2) Proposed changes in streams, lakes, swamps, detention basins, watercourses and flood water runoff channels, floodplains, and the limits of the floodway, all properly identified;
- (3) Proposed location of surface and subsurface drains, inlets, outfalls, and easements;
- (4) Proposed location, materials, and gradients of storm and sanitary sewers, inlets and outfalls, on-site sanitary effluent disposal systems, and location of affected utilities;
- (5) Structures to be removed or relocated on the project site;

(6) The location and design of proposed streets, roads, sidewalks, culverts, bridges, parking lots, hard surfaced areas, including depressed pavements and used to convey or temporarily store overflow from heavier rainstorms, and outlets for such overflow;

(7) The cross section of existing streams and floodplains to be maintained or changed and new channels to be constructed, where changes are proposed or discharge into receiving streams is altered; and

(8) The erosion and sediment control measures to be implemented including, but not limited to: design and installation details, location, vegetation and schedule.
(Ord. 1246, passed 2-13-07)

§ 159.032 SUBMITTAL AND CONSIDERATION OF PLANS.

(A) All applications must be submitted at least 45 days before the Plan Commission meeting at which the application is to be considered. All applications must include a site map. For projects which require approval through the Plan Commission, such as subdivisions and site plan reviews, applicants must submit preliminary and final plats to the Plan Commission pursuant to this subchapter. The professional who prepared the plans included with the application must attend any Plan Commission meeting at which the application is considered.

(B) The Plan Commission will give notice of its decision to the applicant. The Plan Commission must approve or disapprove the plans within 45 days of submission unless the applicant consents to a continuance or extension. All approvals and disapprovals, with written reasons therefor, must be incorporated into the Plan Commission minutes.

(C) Waivers and appeals of waiver decisions.

(1) Based on engineering summaries and on other information provided, the Plan Commission may waive, or approve modifications of, the requirements of this subchapter upon finding that:

(a) Granting the requested waivers or modifications will not contravene the intent and policies of these regulations; and

(b) The requested waivers or modifications are necessary to ensure that substantial justice is done and represent the minimum actions or changes necessary to ensure that substantial justice is done.

(2) In approving waivers or modifications, the Plan Commission may impose such conditions as it finds necessary to substantially secure the objective of these regulations.

(3) With respect to each requested waiver or modification, or imposed condition, the Plan Commission shall prepare and approve written findings of fact. Such findings shall address the relevant conclusory findings set forth in divisions (1) and (2) above, and shall cite the specific facts that support each of the conclusory findings.

(4) The Plan Commission's decision to grant or deny a waiver or modification or to impose a condition is discretionary.

(5) Applications for waivers or modifications shall be submitted to the Plan Commission in writing. On the application, the applicant shall describe the requested waivers or modifications and shall submit proposed findings of fact in support of each request. The applicant bears the burden of establishing a sufficient factual basis for each request.

(6) The applicant shall provide notice of the request to the following downstream property owners: the owners of the first two parcels downstream from the development site; or, the owners of all downstream parcels within 500 feet of the development site, whichever requires notice to the greatest number of property owners. Notice must be sent to each property owner, by certified mail, return receipt requested, at least ten days prior to the meeting at which the Plan Commission will first consider the waiver, using the property owner's address that appears in the Washington County Auditor's property transfer books. The notice must state or describe: the address of the development site; the nature of the requested waivers or modifications; the date, time, and place of the first Plan Commission meeting at which the requests will be considered; the property owner's right to appear before the Plan Commission on that date and be heard on the requests; and the right to appeal the decision to the Board of Zoning Appeals within 15 days of the Plan Commission's decision. The applicant must provide the Plan Commission with proof of compliance with the foregoing notice requirements before the requests may be heard by the Plan Commission.

(7) Any person adversely affected by the Plan Commission's decision may appeal the decision to the Board of Zoning Appeals. Such appeal must be presented in writing to the Board of Zoning Appeals within 15 days of the Plan Commission's decision. The Board of Zoning Appeals will schedule a hearing on the appeal within 30 days of receipt of the written appeal. The Board of Zoning Appeals may affirm, overrule, or modify the Plan Commission's decision.

(Ord. 1246, passed 2-13-07; Am. Ord. 1253, passed 5-10-07)

§ 159.033 DETERMINATION OF RUNOFF QUANTITIES.

Runoff quantities must be computed for the watershed within the parcel under development. The quantity of runoff which is generated as the result of a given rainfall intensity may be calculated as follows:

(A) For areas up to and including 200 acres, the Rational Method may be used: The peak rate of runoff (Q) in cubic feet per second 696 is computed as $Q = CIA$:

(1) C = runoff coefficient, representing the characteristics of the drainage area and defined as the ratio of runoff to rainfall;

(2) I = average intensity of rainfall in inches per hour for a duration equal to the time of concentration (t_c) for a selected rainfall frequency; and

(3) A = tributary drainage area in acres.

(B) Guidance for selection of the runoff coefficients is to be found in appropriate design manuals. Rainfall intensity must be determined from the rainfall frequency curves found in standard design manuals for this region or from data shown. The time of concentration (t_c) to be used must be the sum of the inlet time and flow time in the drainage facility from the most remote part of the drainage area to the point under consideration. The flow time in the storm sewers may be estimated by the distance in feet divided by velocity of flow in feet per second. The Manning Equation must be used to determine the velocity.

(C) Other methods of determining runoff may be used upon approval of the Plan Commission. Computer programs may be used and computer printouts submitted for drainage calculations provided details of the program and the assumption made by that program are submitted with the calculations and approved by the Plan Commission. The Plan Commission may require other methods of determining runoff.

(Ord. 1246, passed 2-13-07)

§ 159.034 AMOUNT OF RUNOFF TO BE ACCOMMODATED BY VARIOUS PARTS OF DRAINAGE FACILITY.

Various parts of a drainage facility must accommodate runoff water as follows:

(A) The drainage facilities, including but not limited to, inlets, catch basins, street gutters, component swales, storm sewers and small channels, which collect storm water must accommodate peak runoff from at least a ten-year return period storm. The allowable spread of water on collector streets is limited to maintaining two clear ten-foot moving lanes of traffic. One lane is to be maintained on local roads and subdivisions streets.

(B) For rainfall heavier than a ten-year storm, these minimum requirements must be satisfied:

(1) Open channels carrying peak flows greater than 30 cubic feet per second must be capable of accommodating peak runoff for a 50-year return period storm within the drainage easement;

(2) New culverts must be capable of accommodating peak runoff from a 50-year return period storm when crossing under a road which is part of the Indiana Department of Transportation functional classification system and is classified as principal or minor arterial, or major or minor collector road; and

(3) Drainage facilities must have adequate capacity to convey the storm water runoff from all upstream tributary areas through the development under consideration for a storm of 100-year design return period calculated on the basis of the upstream land in its present state of development. An allowance, equivalent to the reduction in flow rate detention and release rate have previously been approved by the Plan Commission and evidence of its construction can be shown.
(Ord. 1246, passed 2-13-07)

§ 159.035 DRAINAGE EASEMENTS.

(A) Drainage easements must be provided to cover all elements of the drainage facility and must be designed:

- (1) To be adequate to install and maintain the drainage facilities;
- (2) To minimize conflicts with utility easements;
- (3) To maintain a sufficient bailable area on each lot or parcel;
- (4) To be at least 20 feet wide.

(B) No building, fence, trees or shrubs may be placed within the drainage easement.
(Ord. 1246, passed 2-13-07)

STORM SEWER DESIGN STANDARDS

§ 159.050 HYDRAULIC CAPACITY.

(A) All storm sewers, whether public or private and whether constructed on public or private property, must conform to the design standards and other requirements contained in this subchapter.

(B) The hydraulic capacity of a storm sewer must be determined using the Manning Equation.
(Ord. 1246, passed 2-13-07)

§ 159.051 MINIMUM SIZE.

The minimum diameter of a storm sewer must be 12 inches. An orifice plate or other device must control rate of release for detention storage, subject to approval of the Plan Commission, where the 12-inch pipe will not limit the rate of release as required.
(Ord. 1246, passed 2-13-07)

§ 159.052 GRADE.

The minimum and maximum allowable sewer gradients are those capable of producing velocities of two and 15 feet per second, respectively, when the sewer is flowing full. A minimum of two-foot cover is to be maintained over the top of the pipe. Uniform slopes must be maintained between structures. A final grade must be set with full consideration of the capacity required, sedimentation problems, and other design parameters.

(Ord. 1246, passed 2-13-07)

§ 159.053 ALIGNMENT.

In general, a storm sewer must be straight between structures. The Plan Commission may allow curved sewers at its discretion under certain conditions.

(Ord. 1246, passed 2-13-07)

§ 159.054 MANHOLES.

(A) Structures must be installed to provide access to continuous underground storm sewers for the purpose of inspection and maintenance. Manholes must be provided at the following locations:

- (1) Where two or more storm sewers converge;
- (2) Where pipe size changes;
- (3) Where a change in alignment occurs;
- (4) Where a change in grade occurs;
- (5) At suitable intervals in straight sections of sewer; and
- (6) Where pipe materials change.

(B) The maximum distance between storm sewer manholes must be as follows:

Size of Pipe (inches)	Maximum Distance (feet)
12" thru 42"	400
48" and larger	600

(Ord. 1246, passed 2-13-07)

§ 159.055 INLETS.

Inlets or drainage structures must be utilized to collect surface water through grated openings and convey it to storm sewers, channels, or culverts. The inlet grated opening provided must be adequate to pass the design ten-year flow with 50% of sag inlet grate open areas clogged. An overload channel from sag inlets to a suitable outlet or basin must be provided.

(Ord. 1246, passed 2-13-07)

§ 159.056 WORKMANSHIP.

The specifications for the construction of storm sewers cannot be less stringent than those set forth in the latest revision of the Indiana Department of Transportation "Standard Specifications".

(Ord. 1246, passed 2-13-07)

§ 159.057 MATERIALS OF CONSTRUCTION AND INSTALLATION PRACTICES.

Materials of construction and installation practices must conform to Indiana Department of Transportation's "Standard Specifications" and to recommended design and construction practices set forth in industry standard design and construction handbooks for the type of material being used.

(Ord. 1246, passed 2-13-07)

§ 159.058 PIPE BEDDING, BACKFILL AND SURFACE RESTORATION.

(A) All pipes must be bedded on four inches and covered by 12 inches of Indiana No. 57 crushed limestone.

(B) Where pipe is installed in earth areas, not immediately adjacent to a street or road, the remainder of the trench must be backfilled with selected earth materials, humped over the trench to allow for settling.

(C) Where pipe is installed in a graveled area, the remainder of the trench must be backfilled with crushed stone or bank run sand to a point eight inches below original grade and then filled with Indiana No. 73 crushed limestone to original grade.

(D) Where pipe is installed in an asphalt street, driveway, or parking area, the remainder of the trench must be backfilled with either bank run sand or Indiana No. 57 crushed limestone to a point nine inches below original grade. The trench must then be trimmed back six inches on each side and filled with 3,000 psi concrete. After all construction is completed, the trench must be cleaned, primed and paved with a one-inch compacted thickness of INDO HAD Surface to be flush with the surrounding area. All patch seams can only be saw cut, cut smooth, straight and tarred.

(E) Where pipe is installed in a concrete area, the remainder of the trench must be backfilled with either bank run sand or Indiana No. 57 crushed limestone to a point nine inches below original grade. The trench must then be trimmed back six inches along each side and filled with 3,000 psi concrete flush with original grade. All patch seams must be saw cut only, smooth and straight.

(F) All cutting of trenches in existing asphalt or concrete pavements must be done with a saw only to provide a straight, smooth joint when new paving is done.
(Ord. 1246, passed 2-13-07)

§ 159.059 SPECIAL HYDRAULIC STRUCTURES.

Special hydraulic structures such as siphons, stilling basins, or other special structures required to control the flow of water in storm drainage facilities, must be limited to those locations justified by prudent planning and designed with careful and thorough hydraulic engineering analysis.
(Ord. 1246, passed 2-13-07)

OPEN CHANNEL DESIGN STANDARDS

§ 159.070 CHANNEL CROSS SECTION AND GRADE.

(A) All open channels, whether constructed on public or private property, must conform to the design standards and other requirements contained in this subchapter.

(B) The required channel cross section and grade are determined by the design capacity based on Manning's Equation, the material in which the channel is to be constructed, and the requirements for maintenance. A minimum depth may be required to provide adequate outlets for subsurface drains, storm sewer pipes, tributary ditches or streams. The channel grade must be such that the velocity in the channel is high enough to prevent erosion. Channel lining materials must be justified by the project engineer in the final drainage design.

(Ord. 1246, passed 2-13-07)

§ 159.071 SIDE SLOPES.

Side slopes of earthen channels must be no steeper than 3:1, justified by local materials and approved by the Plan Commission. Flatter slopes may be required to prevent erosion and for ease of maintenance. Where channels will be lined, as per § 159.076, side slopes must be for weep holes. Side slopes steeper than 1-1/2:1 may be used for lined channels provided that the side lining and structural retaining wall are designed and constructed with provisions for live and dead load surcharges.

(Ord. 1246, passed 2-13-07)

§ 159.072 CHANNEL STABILITY.

(A) A stable channel does not vary design gradient and cross section from acceptable limits.

(B) Channel stability must be determined for an aged condition. The velocity must be based on the design flow or the bank full flow, whichever is greater, using “n” values for various channel linings.

(C) Channel stability must be checked using conditions immediately after construction for justification of erosion control measures, in accordance with the provisions of this subchapter.

(Ord. 1246, passed 2-13-07)

§ 159.073 DRAINAGE OF OPEN CHANNELS.

Vegetated channels with gradient of less than 1% or that are subject to low flows of long duration where wet conditions prevail must be drained with a tile system or by other means such as paved gutters. Tile lines may be discharged through a drop structure at the end of the channels or through a standard tile outlet. Tiles must be bedded in granular materials that will not pass through tile openings. Tiles must be installed with a minimum of six inches of cover over the top of the tile and must be offset from the centerline of the channel.

(Ord. 1246, passed 2-13-07)

§ 159.074 APPURTENANT STRUCTURES.

The channel design will include the design of all structures required for the proper functioning of the channel, the laterals, and the maintenance ways.

(Ord. 1246, passed 2-13-07)

§ 159.075 DISPOSITION OF SPOIL MATERIAL.

Spoil material resulting from clearing, grubbing, and channel excavation must be disposed of in a manner that will minimize erosion and other adverse effects to easements, surface drainage, and rights-of-way. Disposal must be done in a manner that will also improve the aesthetic appearance of the site.

(Ord. 1246, passed 2-13-07)

§ 159.076 MATERIALS.

(A) Materials acceptable for use as channel lining are concrete, Gabonese, pegged rod erosion control blankets, and netting.

(B) Other lining materials require specific approval of the Plan Commission. All channel materials must comply with the latest edition of the Indiana Department of Transportation's "Standard Specifications". Interconnected tires are not acceptable material.
(Ord. 1246, passed 2-13-07)

STORM WATER DETENTION

§ 159.090 ACCEPTABLE DETENTION METHODS.

(A) The following governs the design of any improvement with respect to the detention of storm water runoff.

(B) The increased storm water runoff from a proposed development must be detained onsite by appropriate wet or dry bottom reservoirs, by storage on flat roofs, parking lots, streets, lawns or other acceptable techniques. Measures that retard the rate of overland flow and the velocity in runoff channels may also be used to control the runoff rate.
(Ord. 1246, passed 2-13-07)

§ 159.091 DETENTION FACILITY DESIGN.

Storm water facilities must be designed to store the excess flows from a post development, 100-year return interval storm. The release rate must be that of a ten-year return interval storm on the site in its pre-developed state or the capacity of the receiving stream, whichever is less. The developer's engineer is responsible for determining the hydraulic capacity of the receiving stream.
(Ord. 1246, passed 2-13-07)

§ 159.092 ALLOCATION OF DETENTION.

In the case of an existing limiting restriction that cannot be realistically removed, the allowable release rate from any one detention basin must be in direct proportion to the ratio of its drainage area to the drainage area of the entire water shed upstream of the limiting restriction. The total runoff must not exceed the capacity of the restriction and each development must be responsible for its proportionate share of the storage requirement.
(Ord. 1246, passed 2-13-07)

§ 159.093 DETERMINATION OF STORAGE VOLUME – RATIONAL METHOD.

For areas of 200 acres or less, the Rational Method may be used to determine the required volume of storm water storage, as outlined in the County Storm Drainage Manual of the Highway Extension and Research Project for Indiana Counties and Cities (HAIRPIECE).
(Ord. 1246, passed 2-13-07)

§ 159.094 DETERMINATION OF STORAGE VOLUME – OTHER METHODS.

Methods for determining runoff and routing of storm water other than the Rational Method may be used to determine the storage volume required to control storm water runoff. The procedures or methods used must receive the prior approval of the Plan Commission. The TR-20 and TR-55 models are approved for appropriate use in analysis of the runoff and routing of storm water.
(Ord. 1246, passed 2-13-07)

§ 159.095 GENERAL DETENTION BASIN DESIGN REQUIREMENTS.

Basins must be constructed to temporarily detain the storm water runoff that exceeds the peak flow rate authorized by this subchapter. The following minimum standards must be observed:

(A) The maximum volume of water stored and subsequently released at the design release rate must not result in a storage duration in excess of 48 hours unless additional storms occur within the period;

(B) All storm water detention facilities must be separated by not less than 25 feet from any building or structure to be occupied, and the lowest floor of any building or structure must be at least two feet above the 100-year storm water elevation of detention facilities;

(C) Safety grates may be required on all outlet control structures. Grates must retain a sphere greater than six inches in diameter and must have a screen area at least six times the end area of the outlet control structure;

(D) Danger signs must be mounted at appropriate locations to warn of deep water, possible flooding conditions during storm periods and other dangers that exist. Fencing must be provided if deemed necessary by the Plan Commission. The Plan Commission must approve design and locations;

(E) Outlet control structures must be designed to operate as simply as possible and must require little or no maintenance and attention for proper operation;

(F) Emergency overflow facilities such as a weir or spillway must be provided for the release of exceptional storm runoffs or in emergency conditions such as the normal discharge devices becoming totally or partially inoperative. The overflow facility must be of such design that its operation is automatic and does not require manual attention; and

(G) Side slopes must be in compliance with § 159.071.
(Ord. 1246, passed 2-13-07)

§ 159.096 DRY BOTTOM DETENTION BASIN DESIGN REQUIREMENTS.

Dry bottom detention basin must comply with the following additional requirements:

(A) Provisions must be incorporated to facilitate complete interior drainage of dry bottom detention basins. Acceptable methods include natural grades to outlet structures, longitudinal or transverse grades to perimeter drains, paved gutters, or subsurface drains. Dry bottom detention basins with less than 1% gradient must be provided with subsurface drainage or paved gutters;

(B) Recreational facilities, aesthetic qualities, open space or other secondary use must be considered in planning the detention facility; and

(C) The maximum planned depth of storm water stored without a permanent pool must be specified by the developer and approved by the Plan Commission.
(Ord. 1246, passed 2-13-07)

§ 159.097 WET BOTTOM RETENTION BASIN DESIGN REQUIREMENTS.

Where part of a detention basin, excluding wetlands, will contain a permanent pool of water, the following requirements apply:

(A) If fish are to be maintained, a pond must have a water area of at least 1/2 acre and minimum depth of approximately ten feet must be maintained over at least 25% of the pond area. The remaining pond area must not have extensive shallow areas, except as required by division (C) below;

(B) If fish are not to be maintained, a minimum depth of eight feet must be maintained over at least 25% of the pond at permanent water level. Where a limiting layer prevents excavation to that depth, a minimum of six feet over at least 50% of the area is required;

(C) In excavated ponds, the underwater side slopes in the pond must be stable. In the case of valley storage, natural slopes may be considered to be stable;

(D) A safety ledge a minimum of six feet in width and a 10:1 slope is required and must be installed in all ponds approximately 30 inches below the permanent water level; and

(E) Erosion control measures must be installed to prevent erosion from wave action and wet-dry cycles.
(Ord. 1246, passed 2-13-07)

§ 159.098 ROOFTOP STORAGE.

If rooftop detention is proposed, details of such designs are to be included in the application and must include the depth and volume of storage, details of outlet devices and down drains, and elevations of emergency overflow provisions. Rooftop detention is not recommended.
(Ord. 1246, passed 2-13-07)

§ 159.099 PARKING LOT STORAGE.

Paved parking lots may be designed to provide temporary detention storage of storm water. Pending should, in general, be confined to those positions of the parking lots farthest from the area served. Pending areas must not conflict with handicapped parking and access routes. Such Pending areas should be exposed to sunlight in winter months to minimize icing. Storage depth must be limited so as not to conflict with parking lot use. Any detention facility utilizing a parking lot must take resurfacing and other parking lot maintenance activities into consideration during design.
(Ord. 1246, passed 2-13-07)

§ 159.100 FACILITY MAINTENANCE RESPONSIBILITY.

Maintenance of drainage facilities during construction must be the responsibility of the land developer. Maintenance responsibilities must be documented by appropriate restrictive covenants to property deeds prior to final drainage plan approval. Perpetual maintenance is the developer's responsibility.
(Ord. 1246, passed 2-13-07)

§ 159.101 JOINT DEVELOPMENT OF CONTROL SYSTEMS.

Storm water control systems may be planned and constructed jointly by two or more developers as long as compliance with this subchapter is maintained.
(Ord. 1246, passed 2-13-07)

§ 159.102 ALLOWANCE FOR SEDIMENTATION.

Dry bottom detention basins and wet bottom retention basins must be designed with an additional 6% of available capacity to allow for sediment accumulation resulting from development and to permit the pond to function for reasonable periods between cleans. Basins should be designed to collect sediment and debris in specific locations so that removal costs are kept to a minimum.
(Ord. 1246, passed 2-13-07)

§ 159.103 DETENTION FACILITIES IN A FLOODPLAIN.

If detention storage is provided within a floodplain, only the net increase in storage volume above that which naturally existed in the floodplain must be credited to the development. No credit will be granted for volumes below the elevation of the regulatory flood at the location unless compensatory storage is also provided.

(Ord. 1246, passed 2-13-07)

§ 159.104 FEE IN LIEU OF CONSTRUCTION.

In the event that the Plan Commission grants a waiver or exception to the storm water detention standards set out in §§ 159.90 through 159.103 of this subchapter, the developer shall pay a fee in lieu of constructing storm water detention or retention facilities, and said fee shall be in an amount not less than the following based on zoning district classification needed for the development to occur. The fee shall be paid prior to the Plan Commission approving the drainage plan for the development. The fee shall be paid to the Storm Water User Fee Fund. Appendix B, at the end of this chapter, contains a sample Storm Water Facilities Fee Agreement.

<i>Zoning District</i>		<i>Fee</i>
Resident District	RR	\$1,000 per acre of fraction thereof to be developed.
Resident District	R-1	\$1,200 per acre of fraction thereof to be developed.
Resident District	R-2	\$1,400 per acre of fraction thereof to be developed.
Resident District	R-3	\$1,600 per acre of fraction thereof to be developed.
General Business District	B-1	\$4,000 per acre of fraction thereof to be developed.
Highway Business District	B-2	\$4,000 per acre of fraction thereof to be developed.
Light Industrial District	I-1	\$5,000 per acre of fraction thereof to be developed.
Heavy Industrial District	I-2	\$5,000 per acre of fraction thereof to be developed.

<i>Zoning District</i>		<i>Fee</i>
Planned Development District	PD	\$2,000 per acre of fraction thereof to be developed.
Flood Plain District	FP	\$2,000 per acre of fraction thereof to be developed.

(Ord. 1246, passed 2-13-07)

SOIL EROSION AND SEDIMENT CONTROL

§ 159.115 GENERAL PROVISIONS.

Measures taken to control erosion and sedimentation must assure sediment is not transported from a site by storm events. The following general provisions should be used in the preparation of submissions required under this subchapter:

(A) To minimize potential for soil erosion, development should fit the topography and soils of the site. Steep slopes, deep cuts, and fills in soils subject to erosion should be avoided wherever possible and natural contours should be followed as closely as possible;

(B) Natural vegetation must be retained and protected wherever possible. Areas immediately adjacent to natural watercourses and protected wetlands must also be left undisturbed wherever possible. Vegetation to be preserved must be protected prior to construction;

(C) All activities on a site must be constructed in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development;

(D) Practices including, but not limited to, sediment basins, silt traps or filters must be installed prior to land-disturbing activities and maintained to remove sediment from runoff leaving the site as long as unstabilized soil conditions exist;

(E) The selection of soil erosion and sediment control measures must include the assessment of the probable frequency of climatic events. The aesthetics of the project improvements and the requirements of continuing maintenance must be considered; and

(F) Provisions must be made to accommodate the increased runoff caused by changes in soil and surface conditions during and after developments. Drainage ways must be designed so that their final gradients and resultant velocities will not create erosion.

(Ord. 1246, passed 2-13-07)

§ 159.116 DESIGN CRITERIA, STANDARDS, AND SPECIFICATIONS FOR EROSION CONTROL MEASURES.

(A) All erosion control measures must meet the design criteria, standards, and specifications outlined in the:

- (1) “Field Office Technical Guide”;
- (2) “Urban Development Planning Guide”; and
- (3) “Indiana Handbook for Erosion Control In Developing Areas”.

(B) These publications are available through the Washington County Soil and Water Conservation District, the Natural Resource Conservation Service (NARCS) offices, the U.S. Government Printing Office. Erosion control measures must be identified on the plans using standard symbols.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.117 MAINTENANCE OF EROSION CONTROL MEASURES.

The applicant or subsequent landowner must maintain all sediment basins and other erosion control measures necessary to meet the requirements of this subchapter. After land-disturbing activities cease, and the silt is stabilized, temporary sediment basins and other temporary erosion control measures may be eliminated if their purpose has been fulfilled. Any disturbed soil resulting from removal of such practices must be stabilized by approved methods.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.118 CONTROL OF EROSION AND SEDIMENT DURING LAND-DISTURBING ACTIVITIES.

The following requirements must be met on all sites:

(A) *Sediment trapping.* Temporary sediment basins or other suitable control measures must detain sediment-laden water flowing from the site. Water may not be discharged in a manner that causes erosion of the site or receiving channels or an accumulation of sediment within the receiving channel or its outlets;

(B) *Waste and materials disposal.* All waste and unused building materials including, but not limited to, garbage, debris, cleaning wastes, wastewater, toxic materials, and hazardous substances must be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system;

(C) *Tracking*. Prior to the land-disturbing activity each site must have graveled access drives or other approved systems of sufficient width and length to eliminate sediment being tracked onto public or private roadways. Gravel access drives must be maintained by acceptable methods. Flushing is not an acceptable method;

(D) *Temporary stream crossings*. A stream crossing during land-disturbing activities must be non-erosive and structurally stable and must not contribute to flooding or safety hazards. Streams should be crossed at right angle to the stream flow. Erosion control measures must be employed and must be appropriate to the expected life of the crossing. Temporary crossings must convey bank full flow or a two-year peak discharge, whichever is less. Overflow areas must be protected from erosion for a ten-year peak flow;

(E) *Sediment removal*. Public or private roadways must be cleaned daily and after major storms using acceptable methods to remove any accumulated sediment. The developer's contractors are responsible for supervision of the construction activity within the development and must take all necessary actions to remove sediment from the streets. Appreciable sediment should be replaced and stabilized properly and protected from redeposit onto the road or into the storm water system;

(F) *Drain inlet protection*. All storm drain inlets must be protected with straw bales, filter fabric, or equivalent barriers meeting accepted design criteria, standards and specifications. Curb inlet protection measures that trap sediment within pavement areas are prohibited; and

(G) *Site erosion and sediment control*. The following items apply only to the time period when land-disturbing activities are taking place which may cause water and sediment to leave the site:

(1) Runoff passing through the site from adjacent areas must be minimized by protecting the existing channel or, if necessary, diverting it around disturbed areas if legal, feasible, and practical; and

(2) On the site, runoff from the entire disturbed area must be controlled by meeting the following:

(a) All disturbed ground left inactive for seven or more days must be stabilized by seeding, sodding, mulching, or by other equivalent erosion control measures;

(b) For sites having less than ten acres disturbed at one time, silt fences, straw bale dams, or equivalent erosion control measures must be placed along all sloping perimeters where erosion and sedimentation could occur. If a channel or an area of concentrated runoff passed through the site, silt fences must be placed along the channel edges to reduce the amount of sediment reaching the channel; and

(c) Where drainage acres are too large or runoff volumes are too great for sediment trapping practices, one or more sediment basins should be constructed. Each sediment basin should have a sufficient surface area to trap the sediment. The discharge rate or velocity from a basin should be sufficiently low as not to cause erosion or the receiving channel must be adequately protected.

(H) *Top soil stockpiling*. During cut and fill operations topsoil must be stockpiled and re-spread on final grades where vegetation is to be established; and

(I) *Soil stockpiling*. Excess soil that is stored to be used at a later date must be stockpiled and protected from erosion.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

ACCESSORY DRAINS

§ 159.130 SUMP PUMPS.

Sump pumps installed to receive and discharge ground waters or other storm water must be connected to a storm sewer, a subsurface drain or a designated storm discharge channel. Floor drain flow or other sanitary sewage must be connected to the sanitary sewers or septic systems and must not discharge to storm sewers or surface outlets.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.131 DOWN SPOUTS.

All down spouts or roof drains must discharge onto the ground or be connected directly to the storm sewer pipe. Down spouts or roof drains must not be connected to the sanitary sewers or subsurface drains.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.132 FOOTING DRAINS.

Footing drains must be connected to a storm sewer, subsurface drain or designated storm drainage channel. Footing drains or drainage tile must not be connected to the sanitary sewer or septic system.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.133 BASEMENT FLOOR DRAINS.

Basement floor drains must not be connected to the sanitary sewers or septic system. Basement drains must be connected to sump pumps that discharge to storm sewers.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

SINKHOLES**§ 159.150 GENERAL.**

(A) The use of sinkholes as storm water management is not permitted, unless there are no other alternatives.

(B) The city does not encourage the use of natural sinkholes as outlets for drainage from developed areas and will avoid requests for modifications to sinkhole entrances. The proposed use of sinkholes as outlets for development must be approved by the City Engineer and the Plan Commission.

(C) For circumstances that have no other means for drainage, the following criteria shall be implemented.

(Ord. 1246, passed 2-13-07)

§ 159.151 DESIGN.

Specific design requirements for the use of sinkholes, when permitted, include but are not limited to:

(A) The sinkhole shall have the volume to store a 100-year, 24-hour NARCS storm with a no outlet condition;

(B) Storm water discharge into a sinkhole shall not be increased over its preexisting rate according to standards as established by the city. Depressions containing sinkholes shall not be utilized for storm water detention unless no other alternatives exist;

(C) Photographic evidence should be submitted to the Board showing the current conditions of the sinkhole feature. If recent subsidence is evident, the sinkhole shall not be used for storm water drainage unless the feature has been evaluated by a geotechnical engineer, and he or she has determined that the feature can be treated so that significant future subsidence is not likely;

(D) To confirm the suitability for an existing feature to accept a given runoff volume, the feature must be pump tested using at least 80% of the 100-year design storm for an 8-hour duration. The condition of the sinkhole, before and after the pump test should be documented by a licensed professional engineer registered in the state. Any evidence of significant subsidence that occurs during or after the test will be taken as unsuitability of the feature to accept runoff. To confirm that runoff into the sinkhole feature will not affect adversely adjacent properties, fluorescent dye should be injected into the sinkhole during the pump testing. A geotechnical engineer, registered in the state, should be retained to make observations of the fate of the dye in the surrounding area;

(E) Protective measures for the sinkhole inlet must be applied prior to the start of construction activities. Surface water runoff from stripped areas should be directed away from the sinkhole until the areas have been developed or ground cover has been installed and has become established;

(F) An alternate means of surface water disposal must be provided in the event that the sinkhole ceases to accept runoff or significant subsidence occurs in the feature;

(G) Storm water runoff from paved areas or structures shall not directly enter a sinkhole. Drainage plans shall be designated to route runoff through vegetative filters or other filtration measures before it enters a sinkhole. Such filters or filtration methods must be reviewed by the Board;

(H) A geotechnical engineer, licensed in the state, must supervise the design and installation of sinkhole treatment measures. The engineer shall also observe installation of treatment measures and shall document that treatment measures comply with approved plans. The engineer shall be responsible for documenting significant subsidence or other changes in the existing sinkhole feature during treatment that may affect the effectiveness or practicality of the approved treatment method; and

(I) Any instances of significant subsidence must be fully documented and a geotechnical engineer, licensed in the state, must supervise design of treatment measures, must inspect treatment installation, and must document construction of repairs prior to bond release.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

ADMINISTRATIVE REQUIREMENTS

§ 159.170 CERTIFICATION REQUIRED.

(A) After completion of the project and before final acceptance will be made, five professionally prepared and certified sets of “Record Drawings” must be submitted to the Plan Commission for review. These plans shall include all pertinent data relevant to the completed storm drainage and erosion systems and shall include:

- (1) All pipe sizes and pipe material;
- (2) All invert elevations;
- (3) All top rim elevations;
- (4) All structures and pipe lengths;
- (5) All permanent sediment basins and their maintenance provisions;

(6) Data and calculation showing detention basin storage volume; and

(7) A certified statement on the plans stating the completed storm drain facility substantially complies with construction plans as approved by the Plan Commission. If during preparation of these "Record Drawings" it is found that the storm drainage facility does not substantially comply with the construction plans as approved by the Plan Commission, the applicant must obtain re-approval.

(B) The Plan Commission must review all "Record Drawings" for compliance within 30 days after their submission to the Plan Commission. If notice of noncompliance is not given within 30 days of the submission plan, the plans will be construed as approved.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.171 CHANGES IN PLANS.

Any revisions, significant change or deviation in the detailed plans and specifications after formal approval by the Plan Commission must be filed with and approved by the Plan Commission prior to implementation of the revision or change. Copies of the revisions or changes, if approved, must be attached to the original plans and specifications. Notation of revisions or changes in the original plans and specifications shall be written on the cover page of the original plans and specifications approved by the Plan Commission.

(Ord. 1246, passed 2-13-07) Penalty, see § 159.999

§ 159.172 DISCLAIMER OF LIABILITY.

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records, reasonable engineering criteria, and scientific methods of study. Larger storms may occur or storm water runoff depths may be increased by man made or natural causes. This chapter does not imply that land uses permitted will be free from storm water damage. This chapter does not create liability on the part of the Plan Commission or any officer or employee for any damage that may result from reliance on this chapter or on any administrative decision lawfully made.

(Ord. 1246, passed 2-13-07)

§ 159.173 CORRECTIVE ACTION.

Nothing contained in this chapter prevents the Plan Commission from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected with any legal action accrue to the person or persons responsible.

(Ord. 1246, passed 2-13-07)

§ 159.174 EXEMPT PROJECTS.

Any residential, commercial or industrial major subdivision or construction project which has had its drainage plan approved by the Plan Commission prior to the effective date of this chapter is exempt from all the requirements of this chapter, however, compliance is encouraged.
(Ord. 1246, passed 2-13-07)

§ 159.175 VARIANCE PROCEDURES.

(A) The Board of Zoning Appeals may grant a variance from the provisions and standards of this chapter as will not be contrary to the public interest, where owing to extraordinary conditions, fully demonstrated by the applicant on the basis of facts presented, strict compliance with the provisions and standards of this chapter will result in practical difficulties or misuse of property. It is the intent of this chapter that this authority will be used sparingly and only when the applicant has clearly demonstrated that all criteria below are met. The burden of proof is on the applicant. In the exercise of its authority under this section, the Board of Zoning Appeals shall grant a variance only upon finding that all of the following criteria are met:

(1) The variance will not be detrimental to the public health, safety, or general welfare;

(2) The variance will not adversely affect adjacent property;

(3) The variance is justified because of exceptional topographic or other physical conditions unique to the property involved and is not the result of mere inconvenience or financial disadvantage;

(4) The conditions upon which the variance is based are unique to the property for which the relief is sought and are not applicable generally to other property;

(5) The variance is consistent with the intent and purposes of this chapter; and

(6) The condition(s) necessitating the variance were not created by the owner or applicant.

(B) In granting a variance, the Board of Zoning Appeals may impose such conditions or restrictions as will, in its judgment, secure substantially the purposes of this chapter.

(C) A request for a variance from the terms of this chapter shall be submitted in writing at the time when the drainage plan is filed.

(D) A request for a variance must specifically identify the provision(s) or standard(s) of this chapter from which the applicant is seeking a variance, and state the reasons or conditions that exist that the applicant believes justify the granting of a variance.

(E) The request for a variance must be included in any notice required to be published or posted by the applicant and mailed to adjacent landowners as required.

(F) No variance shall be granted for which public notice has not been given as required herein, even though the applicant has otherwise given required notice of the public hearing on applicant's drainage plan.

(Ord. 1246, passed 2-13-07)

§ 159.999 PENALTY.

This section establishes the means of enforcing and the penalty for violation of these regulations.

(A) It is the duty of the Plan Commission to enforce these regulations and to bring any violation or lack of compliance to the attention of its attorney.

(B) No improvement location permit, building permit or certificate of occupancy required under the Building Code, the Zoning Ordinance or these regulations may be issued on any property subject to these regulations until such property is in full compliance with the provisions of these regulations.

(C) Any person who violates a provision of these regulations is guilty of an infraction and, upon conviction, must be fined not less than \$100 and not more than \$2,500 for each day's violation. The court must determine the time period of violation.

(D) The Plan Commission may institute any injunction suit requesting a person or a governmental unit to be directed to repair streets, storm sewer facilities, streams and to remove a structure erected in violation of these regulations or to make the same comply with its terms. If the Plan Commission is successful in its suit, the respondent must bear the costs of the action including, but limited to, attorney fees, court costs, legal advertising, and professional services.

(E) The Plan Commission may institute a suit for mandatory injunction requesting a person or a governmental unit that has violated any provisions of these regulations, to comply with the provisions of the regulations.

(Ord. 1246, passed 2-13-07)

APPENDIX A: SALEM PLAN COMMISSION REVIEW CHECKLIST

Project Name: _____

Date: _____ Commission Project No. _____

The purpose of this checklist is to expedite and facilitate the review process. This checklist gives the minimum requirements needed for review. All items shall be checked as included or marked as N/A. The omission of required items may be cause for rejection of the submittal without review.

Cover Sheet

_____ Location Map	_____ Plan & Revision Date
_____ Sheet Index	_____ Registered Professional Name & Address
_____ Registered Professional Stamp & Signature	_____ Owner Name & Address
_____ Underground Utility Protection Center Note	_____ Erosion Prevention & Sediment Control Notes
_____ All Storm Drainage Shall Conform to the Commission's Standard Specifications	
_____ Commission Project No.	

Composite Drainage Plan

_____ Scale (1"=100' min.)	_____ Street R/W & Name	_____ CL Stationing
_____ Lot Lines	_____ Property Boundaries	_____ Pipe Numbers
_____ Channel Designation	_____ Ex. & Prop. Drainage Structures	_____ Pipe Chart
_____ Ex. & Prop. Easement	_____ Offsite Drainage Areas w/flow	_____ Inlet Drain Area
_____ 100-Yr. Floodplain	_____ 100-Yr. Flood Elevation on Lots	
_____ 100-Yr. Floodway	_____ Minimum Floor or Opening Elevations for Lots	
_____ Offsite Drainage Impact Locations		
_____ Existing and Proposed Contours		

Grading Erosion Prevention & Sediment Control Plan

_____ Ex. & Prop. Contours	_____ Detailed EPSC plan checklist items	_____ Street R/W
_____ Lot Lines	_____ Lot Numbers	_____ CL Stationing
_____ Property Boundary	_____ Ex. & Prop. Easements	_____ Legend
_____ Area of Disturbance	_____ Acres Disturbed	

Site Plan

_____ Inlets w/Line & Station	_____ Headwall Invert
_____ Ex. & Prop. Easements	_____ Inlet Grate & Invert Elevation
_____ Ex. & Prop. Utilities	_____ Pipe Length, Size, Grade, Type, Number
_____ Headwall Type	_____ Channel Designation & Stationing

Storm Drainage Profiles

_____ Inlet Type
_____ Inlet Grate & Invert
_____ Inlet Stationing
_____ Pipe Length, Size, Grade, Type, Number
_____ Channel Calculations (Flow, Roughness, Velocity, 10 and 100 yr. Flow Depths, Design Depth)
_____ Channel PVI Elevations
_____ Channel Designation & Stationing
_____ Channel Elevations @ even 50' Stations and other critical locations
_____ Headwater on pipe culverts (10-year and 100-year)
_____ Hydraulic Grade Line for Through Drainage Systems
_____ Utility Crossings (Location & Elevation)
_____ Sanitary Crossings (Location & Elevation)

Road Profiles

_____ Storm Sewer Profile

- _____ Drainage Structures
- _____ Utility Crossings (Location & Elevation)
- _____ Sanitary Crossings (Location & Elevation)

Submittals

- _____ Commission Plan Review Application
- _____ Detention Analysis
- _____ Wetlands Evaluation
- _____ Plan Review Fees
- _____ Regional Facilities Fee
- _____ Downstream Capacity Analysis
- _____ Sinkhole Geotechnical Analysis

The undersigned acknowledges by signature that these documents meet or exceed the design standards of the Salem Plan Commission and that they were prepared under my supervision. The undersigned further acknowledges that to the beset of my knowledge and belief, the products resulting from these documents will function as intended.

Signature

Date

(Ord. 1246, passed 2-13-07)

APPENDIX B: STORM WATER FACILITIES FEE AGREEMENT

No. _____

THIS AGREEMENT made and entered into this _____ day of _____, 2007,
by and between the Salem Plan Commission, hereinafter referred to as "Commission", and
_____ of _____
whose address is _____,
hereinafter referred to as "Owner".

WITNESSETH:

WHEREAS, the Owner is proposing a development in the regional area known as:

_____ and described as follows:

_____ hereinafter referred to as "the Project", and;

WHEREAS, the Project will contribute to greater storm water runoff entering existing drainage facilities maintained, operated and provided by the City of Salem unless the Owner provides on-site storm water drainage detention/retention facilities as required in the Salem Storm Drainage, Erosion Control, and Sediment Control Ordinance; and;

WHEREAS, in accordance with the City of Salem Storm Drainage, Erosion Control, and Sediment Control Ordinance, the Commission is authorized to enter into a voluntary agreement with the Owner for the acceptance of payment in lieu of constructing on-site drainage detention/retention facilities, in order to mitigate a direct impact that has been identified as a consequence of Owner's Project or to provide funding which may be used to reduce, improve or enhance drainage within the Commission's jurisdictional area, (all of which is hereinafter referred to as the "direct impact"), and;

WHEREAS, the payment accepted by the Commission shall be used for the purpose of mitigating said direct impact, as determined appropriate by the Commission.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, the parties hereto agree to the terms and conditions as stated herein.

1. Owner agrees that in order to mitigate the direct impact that has been identified, Owner shall pay to the Commission at the time of execution of this Agreement:

The fee of _____ Dollars (\$ _____).
Such fee is equivalent to the Commission's estimated cost of providing storm water storage volume necessary to mitigate the impact of the increase in runoff from the development into the Commission facilities, and is a fixed fee based on community wide average costs for such facilities.

2. Owner acknowledges and agrees that there is a direct impact as a result of Owner's Project and that this Agreement is necessary as a result of that impact.

3. The Commission accepts the Owner's contribution in lieu of requiring the Owner to provide all necessary on-site storm water drainage detention/retention facilities for the Project.

4. The Owner agrees that nothing contained herein shall relieve the Owner of the responsibility for providing adequate drainage facilities on site, and discharging to a public drainage facility in accordance with approved plans. The Owner shall be responsible for preparing plans and constructing drainage facilities in accordance with the Commission's design standards and practices.

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5. The Commission and the Owner each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the Commission nor the Owner shall assign, sublet or transfer its interests in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer, director, employee or agent or any public body, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the Commission and the Owner.

6. This Agreement supersedes all previous agreements, oral or written, between the Commission and the Owner and represents the whole and entire Agreement between the parties regarding this matter. No other agreements of representation, oral or written, have been made by the Commission. This Agreement may not be altered, modified or amended except in writing properly executed by an authorized representative's of the Commission and the Owner.

7. If any section, clause or provision of this Agreement shall be held invalid, such holding of invalidity shall not affect the validity of any remaining section, clause, paragraph, portion or provision of this Agreement.

8. The construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Indiana. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provision thereof 1688 shall be instituted and maintained in any court of competent jurisdiction.

IN WITNESS THEREOF, the parties hereto have made and executed this Agreement the day, month, and year first above written:

"OWNER"

Signature

Printed

Title

"COMMISSION"

SALEM PLAN COMMISSION

By:

Terry McNeely

President

Norma Eisert

Secretary

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I, the undersigned Notary Public in and for said County and State, do hereby certify that the foregoing instrument was this day presented to me by _____ who, being by me first duly sworn, declared that _____ signed the foregoing instrument as _____ by authority and direction of its Board of Directors, as a true and proper act and deed.

WITNESS my hand and Notarial Seal, this _____ day of _____, 20____.

Printed

My County of Residence is: _____

(Ord. 1246, passed 2-13-07)

