

Indianapolis
Municipal Code

Planned Unit Development
District Regulations

D-3 Dwelling District Three
Regulations

as relates to Cherry Lake

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Sec. 731-217. D-P planned unit development district regulations.

Statement of purpose. The planned unit development district (D-P) is established for the following purposes:

- a. To encourage a more creative approach in land and building site planning.
- b. To encourage and efficient, aesthetic and desirable use of open space.
- c. To encourage variety in physical development pattern.
- d. To achieve flexibility and incentives for residential development which will produce a wider range of choice in satisfying the changing needs of the county.
- e. To encourage renewal of older areas in the metropolitan region where new development and restoration are needed to revitalize the area.
- f. To permit special consideration of property with outstanding features, including but not limited to historical significance, unusual topography, landscape amenities, and size and shape.
- g. To provide for a comprehensive review and processing of development proposals for developers and the Metropolitan Development Commission by providing for concurrent review of land use, subdivision, public improvements and siting considerations.

Development plans should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site conditions, including vegetation, topography, drainage and wildlife.

Densities and development of a D-P are regulated and reviewed by the Metropolitan Development Commission. Creative site planning, variety in physical development, and imaginative uses of open space are objectives to be achieved in a D-P district. The D-P district is envisioned as a predominantly residential district, but it may include supportive commercial and/or industrial development.

(a) *Permitted D-P uses.* The following uses shall be permitted in the D-P district. Only one primary use shall be permitted per lot. All uses in the D-P district shall conform to the dwelling district regulations of section 731-200.

- (1) Primary use: planned unit residential development, pursuant to the D-P terms and conditions (section 731-217(b)).
- (2) Group home, as defined in section 731-102.
- (3) Temporary uses, as regulated in section 731-218.
- (4) Accessory uses, as regulated in section 731-219.
- (5) Home occupations, as regulated in section 731-220.
- (6) Nonresidential uses, designed to provide an integrated amenity to the planned unit residential development and to serve primarily as a convenience to the immediate neighborhood where office functions, compatible office-type businesses, certain public and semipublic uses and a limited range of retail sales and personal, professional and business services provided are tempered by the merits of the residential elements of the development, and which are an integral part of a residential development logically oriented to and coordinated with the total planned unit residential development, as regulated in section 731-217(b).
- (7) Religious uses, as regulated in section 731-224.

(b) *D-P terms and conditions.*

- (1) *Filing procedure.*

- a. The authorization of a planned unit development shall be subject to the procedures expressed herein.
- b. A petition for a planned unit development may be initiated by the owners of property of fifty (50) percent or more of the area involved in the petition, or may be initiated by the Metropolitan Development Commission.
- c. The petition which shall include a preliminary plan for any area proposed for development as a planned unit development shall be filed with the Division of Development Services of the Department of Metropolitan Development. The preliminary plan shall include:
 1. Proposed layout of streets, open space, and other basic elements of the plan.
 2. Identification of location and types of uses within the area, including proposed densities of said uses.
 3. Proposals for handling traffic, parking, sewage disposal, drainage, tree preservation and removal and other pertinent development features.
 4. The plan shall show the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the land adjacent thereto. Any land within the area to be zoned that is now owned by the petitioners shall be so identified.
 5. A general statement of any covenants or commitments to be made a part of the planned unit development as well as the order and estimated time of development.
 6. A statement of the order of development of the major elements of the project, including whether the development will be in phases, and, if so, the order and content of each phase.
 7. Proposed perimeter treatment including details of building locations, parking, and landscaping. The proposed perimeter treatment shall include all areas within the project within one hundred (100) feet of the boundary of the project unless a larger area is requested by the Administrator.
- d. The preliminary plan shall be presented in triplicate and to a scale not to exceed one inch equals one hundred (100) feet. The preliminary plan may be a freehand drawing and may include any graphics which will explain the features of the development.
- e. Within twenty-five (25) days after filing, the Administrator, or designated representative, shall consult with the petitioner regarding the petition. After such consultation, the petitioner may make modifications to the petition.
- f. After consultation with the Administrator and after making any modifications to the proposed preliminary plans, the petitioner shall file in triplicate a "final proposed preliminary plan" which shall:
 1. Include all documents included in the preliminary plan.
 2. Include an index identifying all documents included in the preliminary plan.
 3. Include a cover sheet indicating that it is the final proposed preliminary plan and indicating the date and case number.
 4. Be bound or stapled together and all documents therein reduced to a size no larger than eight and one-half (8 1/2) by fourteen (14) inches.

(2) *[Reserved.]*

(3) *Preliminary plan hearing.*

a. The petition, if and so modified, shall then be heard by the Metropolitan Development Commission as a petition for zoning ordinance amendment and subject to the procedures applicable thereto. The Commission may approve, amend, or disapprove the plan and may impose any reasonable condition upon its approval. If approved, the preliminary plan shall be stamped "Approved Preliminary Planned Unit Development" and be signed by the President or Vice-President of the Commission and one copy shall be permanently retained in the offices of the Division of Development Services.

b. The approved preliminary planned unit development shall then be certified to the City-County Council for adoption as a D-P district pursuant to the laws governing adoption of zoning ordinances. Upon adoption by the City-County Council, the planned development shall be returned to the Department of Metropolitan Development, Division of Development Services, which shall thereafter exercise continuing jurisdiction. In the exercise of continuing jurisdiction, the Commission may from time to time approve modifications of the approved preliminary planned unit development in a manner consistent with the approved development concept.

(4) *Detailed plan approval.*

a. Before any development takes place, the Administrator shall approve a detailed plan specifying the location, composition, and general engineering features of all lots, drainage, sewage, water supply facilities, recreational facilities, site perimeter treatment and other pertinent site development features including general locations and architectural features of proposed buildings. Such approval shall be conditioned upon a finding by the Administrator that the detailed plan is consistent with the approved preliminary planned unit development.

b. The approved detailed plan shall be stamped "Approved Detailed Planned Unit Development" and be signed by the Administrator and one copy shall be permanently retained in the offices of the Division of Development Services.

c. Approval of the first phase of the detailed plan shall be obtained within two (2) years and approval of the balance of the detailed plan shall be obtained within five (5) years after adoption of the D-P district by the City-County Council.

d. If all or a part of the planned unit development requires platting, only a preliminary plat shall be required within the said two-year period and final platting may be undertaken in sections or phases at a later time. In cases of platting, plat approval shall be conditioned, in part, upon a finding that the plat is consistent with the approved preliminary planned unit development.

e. In the exercise of continuing jurisdiction, the Administrator may from time to time approve modifications of the approved detailed planned unit development in a manner consistent with the approved preliminary planned unit development.

f. A refusal by the Administrator to approve a detailed plan shall not be construed as a denial, and any such refusal shall not operate as a limitation on the right of the petitioner to seek approval at a later date nor shall it impair the right of the petitioner to obtain an extension of time for approval. Petitioner may, however, appeal to the Commission from the Administrator's refusal to approve a detailed plan.

g. In the event that the approval of a detailed plan is not timely obtained, the Commission may initiate an amendment of the zoning ordinance relating to said land.

h. The approved preliminary plan may provide for development of the property involved in phases. If such phasing is permitted, the petitioner may submit partial detailed plans which correspond to the phases involved. Such partial detailed plans, when approved, shall be treated in the same manner as approved detailed plans for an entire planned unit development.

i. Approval shall expire after a period of five (5) years from the approval of a detailed plan unless the development is fifty (50) percent completed in terms of

public improvements, including streets, parks, walkways, utility installations and sanitary sewers.

(5) *Platting and vacation.* Where a platting, replatting or vacation of streets within all or a portion of the land involved is contemplated, the Plat Committee of the Metropolitan Development Commission shall handle such matters in accordance with its regular procedures, but it is not required to adhere to the qualitative and quantitative requirements of the Subdivision Control Ordinance of Marion County, Indiana (Ordinance 58-AO-13, as amended), where such requirements are not in keeping with an approved planned unit development and are not necessary to safeguard the public health, safety, morals, or welfare.

(6) *Covenants and maintenance.*

a. Covenants, when required by the Commission, shall be set forth in detail and shall provide for an automatic termination date, or, in the alternative, a provision for the release of such restriction by execution of a document so stating and suitable for recording, signed by the Administrator upon authorization by the Commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Commission as well as other parties designated by the Commission, and shall be specifically enforceable by the Commission.

b. The Commission may require the recording of covenants for any reasonable public or semipublic purpose, including, but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other public and semipublic purposes. Such covenants shall provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specified period of time, the covenants shall automatically terminate. If such termination occurs, the petitioners shall then submit for approval by the Commission a modified detailed plan for such land, otherwise consistent with the approved preliminary planned unit development.

c. The Commission may require the recording of covenants for any other reasonable purpose, including but not limited to imposing standards for development of property in a planned unit development. Such development standards may include, but are not limited to, requirements as to the following:

1. Lot area.
2. Floor area.
3. Ratios of floor space to land area.
4. Area in which structures may be built ("buildable area").
5. Open space.
6. Setback lines and minimum yards.
7. Building separations.
8. Height of structures.
9. Signs.
10. Off-street parking and loading space.
11. Design standards.
12. Phasing of development.
13. Bikeways and walkways.
14. Landscaping.

d. The petitioner may be required to provide financial assurance for the satisfactory installation of all public facilities in the form of bonds or such other

assurances as are required in the normal procedures of platting pursuant to the provisions of the Subdivision Control Ordinance of Marion County, Indiana (Ordinance 58-AO-13, as amended).

e. Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities, including private streets jointly shared by such property owners if such facilities are a part of the planned unit development, and, in such instance, legal assurances shall be provided which show that the private organization is self-perpetuating and adequately funded to accomplish its purposes.

f. Common facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance at a reasonable and non-discriminatory rate of charge to the beneficiaries thereof. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

g. All private streets shall be maintained by the aforesaid private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area.

(7) *Recording.* All approved detailed planned unit developments and modifications thereof shall be recorded in the Office of the Marion County Recorder within two (2) years after approval.

(8) *Permit.* No Improvement Location Permit shall be issued for a D-P district unless all recording required by section 731-217(b)(5) has been effected. No Improvement Location Permit shall be issued for a D-P district which fails to adhere to the approved detailed planned unit development.

(9) *Construction.*

a. No construction or installation work shall be done on any public improvements until satisfactory plans and specifications therefor (as required by Section 2.06 of the Subdivision Control Ordinance of Marion County, Indiana, Ordinance 58-AO-13, as amended) have been submitted to the Administrator and the petitioner has, at least twenty-four (24) hours in advance, notified the Administrator of his intention to begin such work, in order that inspections may be made as the work progresses.

b. All development shall be in conformity with the approved detailed planned unit development and any material deviations from the approved detailed planned unit development shall be subject to appropriate enforcement action.

(10) *Extensions, abandonment, expiration.*

a. Extensions of the time for accomplishing any matters set forth herein may be granted by the Administrator for good cause shown. In the event the Administrator disallows a requested extension, the petitioner may appeal said determination to the Commission.

b. Upon the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved detailed planned unit development for twenty-four (24) consecutive months), or upon the expiration of five (5) years from the expiration of a detailed planned unit development for a development which has not been completed (or the expiration of an extension granted by the Commission pursuant to section 731-217(b)(10)a), the Commission may initiate an amendment to the zoning ordinance so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories which it deems appropriate.

(11) *Rules of procedure.* All proceedings brought under this section shall be subject to the Rules of Procedure of the Metropolitan Development Commission, where not

inconsistent with the procedure otherwise stated herein.

(12) *Limitation on rezoning.* The Commission shall not initiate any amendments to the zoning ordinance concerning the property involved in a planned unit development before completion of the development as long as development is in conformity with the approved detailed planned unit development and is proceeding in accordance with the time requirements imposed herein.

(G. O. No. 100, 1989, § 2, 11-20-89)

Sec. 731-200. General dwelling district regulations.

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

(a) After the effective date of this ordinance:

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

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

(3) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this ordinance with the exception of signs, which are regulated by Chapter 734 of this Code, and of the following provisions:

a. *Restoration of legally established nonconforming uses, structures, buildings.* Legally established nonconforming uses and structures or buildings may be restored to their original dimensions and conditions if damaged or partially destroyed by fire or other disaster provided the damage or destruction does not exceed two-thirds ($\frac{2}{3}$) of the gross floor area of the building, structure or facilities affected; except, however, all land within any flood control district shall, also, be subject to the requirements of section 735-300 through section 735-310 of this Code.

b. *Discontinuation of nonconformity.* The lawful nonconforming use or occupancy of any lot, in a dwelling district, existing at the time of the effective date of this ordinance, may be continued as a nonconforming use, but if such nonconforming use is discontinued for one (1) year, any future use or occupancy of said land shall be in conformity with the provisions of this ordinance.

c. *Legally established nonconforming uses; public schools.* Any legally established nonconforming use public elementary, middle, junior high or high school (including any structures, facilities and parking areas accessory thereto) may be converted, enlarged, extended, reconstructed or relocated for such public school use on the same lot or parcel as it existed on August 8, 1966, provided such school building, structure, facilities and parking area shall conform to the minimum yard and setback requirements of the applicable dwelling district.

d. *Yard setback exceptions:*

1. *Established front setback exception/averaging.* In any block in which an existing front yard depth and setback is established (by existing legally established buildings within a Dwelling District) for more than twenty-five (25) percent of the linear frontage of the block (or a distance of two hundred (200) linear feet in either direction, whichever is the lesser), the minimum required front yard depth and setback for any new building or structure shall be the average of such established front yards if such dimension is less than the minimum required minimum front setback established by this ordinance.

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

i. Only a one-time expansion along the legally established nonconforming front setback line shall be permitted; and

ii. The linear front footage of expansion does not exceed fifty (50) percent of the linear front footage of the original building, and all other requirements of this ordinance are maintained for the expansion. Provided: For both 1. and 2. above, however, in no case shall a building or structure:

1. Encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana;

2. Encroach upon any existing right-of-way; or

3. Encroach into a clear sight triangular areas, as required in section 731-221 (c)(1).

3. *Side and rear yard setback exceptions.* The minimum side and rear yard setback requirements of the D-S, D-1, D-2, D-3, D-4, D-5, D-5II, and D-8 (for a lot containing a single or a two-family dwelling **unit**) Districts shall be subject to the following:

i. *Primary buildings:* The primary building may be enlarged or extended along a legally established nonconforming side yard between the established front setback line and the established rear setback line of the primary building provided that the linear footage of such enlargement or extension: a. does not exceed fifty (50) percent of the linear footage of the primary building along that side setback line, or b. be a one-time only expansion along the legally established setback line.

ii. *Detached accessory buildings.*

1. Legally established, detached, accessory garages may be reconstructed on an existing foundation, even though such reconstruction would not comply with required side or rear yards.

2. An accessory building may be enlarged or extended along a legally established nonconforming side or rear yard provided that the linear footage of such enlargement or extension: a. does not exceed fifty (50) percent of the linear footage of the accessory building along that side or rear setback line; b. be a one-time only expansion along the legally established setback line; and, c. such enlargement or extension shall not encroach into any required yard other than the existing nonconforming side or rear yard along which the enlargement or extension is occurring.

e. *Lot area, lot width exception.* Any lot recorded or any platted lot recorded prior to the adoption of this ordinance, having less than the minimum lot area or minimum lot width required by the applicable dwelling district regulations of this ordinance for a single-family dwelling, shall be deemed an exception to such minimum lot area and lot width requirement, and a single-family dwelling may be constructed thereon provided all other requirements of this ordinance, including minimum yard and setback requirements, shall be maintained.

f. *Reserved.*

g. *D-6 and D-6II district single-family exception.* In the D-6 and D-6II districts, a single- or two-family dwelling, including accessory structures, may be constructed, erected, enlarged, extended, or reconstructed on any platted lot recorded prior to the adoption of this ordinance which was specifically platted for single-family dwelling purposes. Such **development** shall be in accordance with the approved plat, any restrictions thereof, and any commitments resulting from the rezoning of such lot.

(4) The front setback and minimum front yard requirements of all dwelling zoning districts shall be subject to the following exception for all land within the Town of Meridian Hills, Indiana: The required front setback and minimum yard requirements applicable to all land within the Town of Meridian Hills, Indiana, however presently zoned, shall be not less than the standards of the class R-1, R-2, and R-3 area districts, respectively, previously applicable thereto as said land was formerly zoned, in accordance with the Meridian Hills Zone Map and section 12 of the Zoning Ordinance of the Town of Meridian Hills, Indiana, General Ordinance No. 1, 1946, prior to the effective date of the comprehensive Dwelling Districts Zoning Ordinance of Marion County, Indiana, Ordinance 66-AO-2, which rezoned and reclassified said land. (Said Zoning Ordinance of the Town of Meridian Hills, Indiana, section 12 and Meridian Hills Zone Map, adopted by the Marion County Council March 28, 1957, as a part of Marion County Council Ordinance No. 8-1957, are hereby incorporated herein by reference).

(5) *Secondary means of escape.* Any secondary means of escape which includes, but is not limited to, fire escapes or similar emergency accesses, shall be located on the rear or side facades of the building or structure. In the case of a building or structure located on a corner lot, the secondary means of escape shall not be located on the facade of any building or structure which has frontage along a public or private street.

(6) *Side yard setback; zero (0) lot line option.* The minimum side yard setback requirements of the D-S, D-1, D-2, D-3, D-4, D-5, and D-5II zoning districts shall be subject to the following exceptions: Any plat of a subdivision submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce the minimum side yard requirement for one (1) side yard of each lot to zero (0) feet provided that:

- a. A minimum distance of ten (10) feet shall be required and maintained between all buildings on adjacent lots; and,
- b. No windows or doors shall be provided or maintained on that portion of the structure which reduces the required side yard by use of this exception; and,
- c. The aggregate side yard(s) is provided on the lot according to the applicable dwelling district regulations; and,
- d. An easement, providing for the continual maintenance of that portion of the structure which reduces the required side yard by use of this exception, is provided, recorded and maintained.

(7) *Exceptions to dwelling district **development** standards for the **development** of cluster subdivisions.* In any plat of a subdivision recorded after January 1, 1990, in the D-S, D-1, D-2, D-3 and D-4 zoning districts the following exceptions shall apply. Any subdivision, the plat of which is submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, may be developed as a cluster subdivision in accordance with the following:

a. *Purpose.* Cluster subdivisions are intended to allow greater flexibility in design and **development** of subdivisions, in order to produce innovative residential environments, provide for more efficient use of land, protect topographical features, and permit common area and open space. To accomplish this purpose, the following regulations and exceptions shall apply only to cluster subdivisions.

b. *Exceptions to dwelling district **development** standards.* Exceptions to the **development** standards relating to the subdivision's lot size, shape and dimensions may be permitted for individual lots within a cluster subdivision, as follows:

1. *Project area (minimum size of subdivision).* There shall be a minimum of five (5) acres required for the **development** of a cluster subdivision. The tract of land to be developed shall be in one (1) ownership or shall be the subject of an application filed by the owners of the entire tract. The tract shall be developed as a **unit** and in the manner approved.

2. *Project density.* The overall maximum density of the proposed cluster subdivision shall remain the same as that permitted by developing the same site area into developable lots in full compliance with the applicable underlying dwelling district regulations and the Subdivision Control Ordinance of Marion County, Indiana.

3. *Sewers.* Attachment to public or semipublic water and sanitary sewer facilities shall be mandatory for **development** in any cluster subdivision with a minimum lot area of less than twenty-four thousand (24,000) square feet.

4. *Area, width, setback, and open space for individual lots.* Individual lots in a cluster subdivision are exempt from the following **development** standards of the applicable dwelling district:

- i. Minimum lot area.
- ii. Minimum lot width.
- iii. Minimum lot width at setback.
- iv. Minimum side and rear yard setback regulations. Minimum side and rear yard setback regulations may be modified by the following:

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

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

The minimum side yard setback shall have a minimum depth in accordance with section 731-200(a)(6), Side yard setback; zero (0) lot line option, with the exception that provision 200 (a)(6)c. shall not apply when utilizing the cluster subdivision exception.

v. The minimum street frontage. Minimum street frontage may be reduced to fifteen (15) feet provided, however, that each individual lot shall have direct access to a public street, and,

vi. Minimum open space. Individual cluster lots shall have a minimum open space of

fifty (50) percent.

5. *Project open space.* The amount of permanent open space created by the **development** of the site as a cluster subdivision shall be equivalent to, or more than, the total reduction in lot sizes. At least seventy-five (75) percent of the total amount of open space shall consist of tracts of land at least fifty (50) feet wide. The open space created by the **development** of the site as a cluster subdivision shall be provided in such a manner that it is preserved in its naturally occurring state for passive recreational activities. A subordinate amount of this open space may be developed as a common recreational area. The open space created by the **development** of the site as a cluster subdivision shall further be provided in such a manner that it is accessible to residents of the subdivision and for maintenance. The open space shall perpetually run with the subdivision and shall not be developed or separated from the cluster subdivision at a later date. Provisions shall be made for continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge.

c. *Procedures for cluster subdivision approval.*

1. The petitioner shall submit two (2) site plans for the property proposed for a cluster subdivision for review and conceptual design approval by the Administrator prior to filing for plat approval.

i. Site plan 1 shall depict the **development** of the site in full compliance with all use and **development** standards of the applicable underlying dwelling district and the Subdivision Control Ordinance of Marion County, Indiana. This site plan will be used to determine the maximum number of developable lots possible on the site and set the density of that **development**.

ii. Site plan 2 shall depict the **development** of the site as a proposed cluster subdivision. The density of the overall **development** shall be no greater than that permitted by the **development** of the site depicted in site plan 1.

2. The Administrator shall compare the proposed cluster subdivision with the site plan showing the same site developed in compliance with the applicable dwelling district and determine the appropriateness of cluster design for the site.

3. In determining the appropriateness of cluster design for the site, the Administrator shall look for the following attributes:

i. Protection of unique topographical features on the site, including but not limited to slopes, streams, natural water features.

ii. Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features.

iii. **Development** of common open space and recreational areas accessible to residents of the subdivision including provisions for walkways and bikeways.

iv. Providing a more efficient use of the land.

v. Producing innovative residential environments.

vi. Minimizing the alteration of the natural site features to be preserved through the design and situation of individual lots, streets, and buildings.

vii. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between **development** and the land.

viii. Relationship to surrounding properties, improvement of the view from and of buildings, and minimizing of the land area devoted to motor vehicle access shall be encouraged through the arrangement and situation of individual lots, buildings, and **units**.

4. The Administrator shall further review the proposed cluster subdivision to ensure that the proposed cluster **development** will be constructed, arranged, and operated so as not to interfere with the **development** and use of neighboring property, in accordance with the applicable district regulations, to include any necessary transition along the perimeter of the **development** with adjacent single-family zoning districts.

5. If upon review, the Administrator, based upon the attributes noted above, determines that the proposed cluster subdivision is not appropriate for the site, the Administrator shall inform the petitioner in writing of the determination. The petitioner may, within five (5) business days, appeal the Administrator's decision by filing an approval petition before the Metropolitan **Development** Commission.

6. If upon review the Administrator, based upon the attributes noted above, determines that the proposed cluster subdivision is appropriate for the site, the Administrator shall: 1. inform the petitioner in writing of the determination; and, 2. send a copy of that letter to the applicable registered neighborhood organizations. The petitioner may then proceed with the filing of a preliminary plat before the Plat Committee. The filed plat shall be in substantial compliance with the proposed plat approved by the Administrator. The legal notice for the public hearing of the Plat Committee regarding such a preliminary plat shall indicate clearly that the request is for a cluster subdivision.

d. *Maintenance of common open space areas.* As a condition of Administrator's approval of the cluster subdivision permitting exceptions to the standard requirements of the applicable zoning district, the petitioner shall submit with the site plan for review and approval documentary assurances that permanent dedication of the open space areas shall be made and that adequate provision(s) is being made for continuous and adequate maintenance of project open space, common areas and recreation areas. Once approved by the Administrator, the documentary assurances shall be filed with the Plat Committee at the time a petition for plat approval is initiated. Further, the documentary assurances shall be incorporated in the plat that is recorded with the Office of the Marion County Recorder. No exceptions to these requirements shall be permitted unless the Plat Committee determines that the petitioner has adequately provided for such upkeep, protection and maintenance of open space, common area or recreational areas through other legally binding perpetual agreements.

(8) *Requirement for group homes for the mentally ill.* In any Dwelling District, a group home (as defined in section 731-102) for the mentally ill shall be excluded from a residential area if the group home is located within three thousand (3,000) feet of another group home for the mentally ill, as measured between lot lines.

(9) *Legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969.*

a. A nonconforming use in a district of the Dwelling District Zoning Ordinance (as adopted by the Metropolitan **Development** Commission under docket number 66-AO-2) shall be deemed to be legally established (relative to both use and **development** standards) if the use:

1. Existed prior to April 8, 1969; and
2. Has continued to exist from April 8, 1969, to the present; and
3. Has not been abandoned; and
4. Of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and **development** of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan **Development** Commission shall outline the procedure to be followed in order to obtain an official certificate.

b. Any construction, erection, conversion (including, but not limited to the addition of dwelling **units**), enlargement, extension, reconstruction or relocation occurring after April 8, 1969, have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.

c. This subsection 731-200(a)(9) shall:

1. Have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any **unit** or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
2. Not relieve any property of the legal obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.

3. Not apply to a property if written records of the:

- i. Health and Hospital Corporation of Marion County;
- ii. Fire department having jurisdiction over the property;
- iii. Local law enforcement agency or agencies having jurisdiction over the property; or
- iv. Indiana Department of Environmental Management or Department of Natural Resources;

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

d. *Definition of significant violation.* For purposes of this provision, a violation is defined to be significant as:

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

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

(1) *Vibration.* No use shall cause earth vibrations or concussions detectable beyond the lot lines without the aid of instruments.

(2) *Smoke.* No use shall emit smoke of a density equal to or greater than No. 2 according to the Ringelmann Scale, as now published and used by the U. S. Bureau of Mines, which scale is on file in the office of the Division of **Development** Services, and is hereby incorporated by reference and made a part hereof.

(3) *Dust.* No use shall cause dust, dirt or fly ash of any kind to escape beyond the lot lines in a manner detrimental to or endangering the public health, safety or welfare or causing injury to property.

(4) *Noxious matter.* No use shall discharge across the lot lines noxious, toxic or corrosive matter, fumes or gases in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.

(5) *Odor.* No use shall emit across the lot lines odor in such quantity as to be readily detectable at any point along the lot lines and as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.

(6) *Sound.* No use shall produce sound in such a manner as to endanger the public health, safety or welfare or cause injury to property. Sound shall be muffled so as not to become detrimental due to intermittence, beat, frequency, shrillness or vibration.

(7) *Heat and glare.* No use shall produce heat or glare creating a hazard perceptible from any point beyond the lot lines.

(8) *Waste.* No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Division of Public Health of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; and the Stream Pollution Control Board of the State of Indiana, or in such a manner as to endanger the public health, safety or welfare; or cause injury to property.

Sec. 731-205. D-3 dwelling district three regulations.

Statement of purpose. The D-3 district is intended for areas of low or medium intensity single-family residential **development**. Land in this district should have good thoroughfare access, be relatively flat in topography, and be rather closely associated with community and neighborhood facilities (schools, parks, shopping areas, etc.). Two-family dwellings are permitted on corner lots in this district. The D-3 district has a typical density of two and six-tenths (2.6) **units** per gross acre. This district represents the low density residential classification of the comprehensive general land use plan. All public facilities shall be present. **Development** plans should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage and wildlife (refer to the cluster subdivision option of section 731-200).

(a) *Permitted D-3 uses.* The following uses shall be permitted in the D-3 district. Only one primary use shall be permitted per lot. All uses in the D-3 district shall conform to the D-3 **development** standards (731-205(b)) and the dwelling district regulations of section 731-200.

(1) Primary uses.

- a. Single-family dwelling, including a manufactured home as regulated in section 731-222.
- b. Two-family dwelling (permitted on corner lots only), as regulated in section 731-205(b)(2)c.
- c. Group home, as defined in section 731-102 and as regulated in section 731-200(a)(8).
- d. Religious use, as regulated in section 731-224.

(2) Temporary uses, as regulated in section 731-218.

(3) Accessory uses, as regulated in section 731-219.

(4) Home occupations, as regulated in section 731-220.

(b) *D-3 **development** standards.*

(1) *Minimum lot.*

a. Minimum lot area:

Single-family dwelling: Ten thousand (10,000) square feet.

Two-family dwelling: Fifteen thousand (15,000) square feet.

Provided, however, any plat of a subdivision consisting of five (5) or more lots submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce said minimum lot area for up to twenty (20) percent of the total number of lots within said plat, to the extent of up to twenty (20) percent below such ten thousand (10,000) square feet requirement, provided the average size of all lots within said approved plat shall be at least ten thousand (10,000) square feet.

- b. An additional five thousand (5,000) square feet of lot area shall be required for any lot utilizing a septic tank or other individual sewage disposal system; provided, however, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory for **development** in this district for lots in any plat of a subdivision recorded after January 1, 1990.

(2) *Minimum lot width and street frontage.*

a. Minimum lot width at the required setback line:

Single-family dwelling: Seventy (70) feet.

Two-family dwelling: One hundred five (105) feet (on each street).

Provided, however, any plat of a subdivision consisting of five (5) or more lots submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce said minimum width for up to twenty (20) percent of the total number of lots within said plat, to the extent of up to ten (10) percent below such 70-and 105-foot requirements.

b. Minimum street frontage: Each lot shall have at least thirty-five (35) feet of frontage on a public street and shall gain direct access from either said street or an abutting alley.

c. Orientation of two-family dwellings: On corner lots, the orientation (front doors, driveways) of each **unit** in a two-family dwelling shall be toward a different street frontage.

(3) *Minimum setback lines and yards.*

a. Minimum setback line and front yard: Front yards having a minimum depth in accordance with the setback requirements of section 731-221(a) shall be provided along all public street right-of-way lines.

b. Minimum rear yard: Twenty (20) feet.

c. Minimum side yard: Aggregate sixteen (16) feet; provided, however, no side yard shall be less than six (6) feet.

(4) *Minimum open space:* Seventy (70) percent of the lot area.

(5) *Maximum height.*

a. Primary building: Thirty-five (35) feet.

b. Accessory buildings: Twenty (20) feet.

(6) *Minimum main floor area.* Minimum main floor area of the primary building, exclusive of garage, carports, and open porches:

One-story building: One thousand two hundred (1,200) square feet for each dwelling **unit**.

Building higher than one story: Eight hundred (800) square feet for each dwelling **unit** in the building, provided the total floor area of each **unit** shall be at least one thousand two hundred (1,200) square feet.

(7) *Off-street parking and public streets.* Off-street parking areas and public streets shall be provided in accordance with section 731-221(e) and (c).

(G. O. No. 100, 1989, § 2, 11-20-89; G. O. No. 4, 1992, § 1(H), 2-24-92; G.O. 97, 1995, § 1(B))

Sec. 731-219. Accessory uses.

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

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

(b) *Accessory use **development** standards.* Accessory uses in all dwelling districts shall comply with the following requirements:

- (1) *General accessory use requirements.* Accessory uses:
 - a. Shall be customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot.
 - b. Shall be operated and maintained under the same ownership and on the same building lot as the primary use.
 - c. Shall be subordinate in area, bulk, extent, and purpose to the primary use of the building served. The height of an accessory building or structure shall be less than or equal to that of the primary structure. The total square footage of all accessory buildings on a building lot shall not exceed seventy-five (75) percent of the main floor area of the primary building, except that a detached garage, which is the only accessory building on the lot, may equal the maximum dimensions of twenty - four (24) by thirty (30) feet provided that the total square footage of the

garage is less than or equal to the main floor area of the primary building.

d. Unless otherwise specified in this ordinance, detached accessory buildings:

1. Shall not be located closer to any front or side lot line than the required minimum front and side yard setbacks of the dwelling district, or, in the case of a front yard, the established front yard setback on the lot, whichever is greater;
2. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II and D-8 dwelling districts shall not be located closer to any rear lot line than five (5) feet;
3. Shall comply with the minimum side yard requirements of the district independently of the side yards established by the primary building.
4. Shall not be permitted on a lot prior to the erection of the primary building.

e. Shall not encroach upon, as the primary building shall not encroach upon, any platted easement.

f. Patios, decks, terraces having a horizontal area within eighteen (18) inches of grade level shall not require an Improvement Location Permit.

(2) *Appurtenances.*

a. Such appurtenant features as walks, drainage installations, mailboxes, lamp posts, bird baths, air conditioning **units** and structures of similar and comparable nature, shall be permitted on any lot.

Provided, however, the front yard of any lot may contain only enough paving, gravel or similar material sufficient for reasonable access to and from the off-street parking area. The remaining front yard shall be landscaped in grass, shrubbery, trees or hedge, or in combination with other similar and suitable vegetative ground cover materials.

b. The growing of vegetables, grasses, fruits, flowers, shrubs, vines, and trees shall be permitted on any lot, provided such operations are not for profit. In the D-A dwelling district, the growing of such items may be for profit.

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

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

Provided, however:

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

(a) To corner lots in **Development** Area One, as noted in the Thoroughfare Plan for Marion County, Indiana and reproduced in section 731-102 as Diagram J.

For corner lots in **Development** Area One:

Fences up to six (6) feet in height may be permitted in any front yard which: 1. does not serve as the primary entrance (that which architecturally is designed as the main or "front door") for the dwelling; and, 2. does not face the primary entrance of a dwelling **unit** across the street.

Fences exceeding forty-two (42) inches in height shall not encroach beyond the building line established on the other street frontage.

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

For multifamily projects in the above Districts:

Fences or structural barriers up to six (6) feet in height may be permitted in any front yard which exceeds five hundred (500) linear feet of frontage. For sites which have frontage on two (2) streets, a fence or structural barrier may be up to six (6) feet in height only if the applicable street frontage exceeds five hundred (500) linear feet.

- ii. The measurement of fence height shall be taken from the ground level to the top of the fence, exclusive of fence posts (See section 731-102, Diagram G).
- iii. Grade mounding, inconsistent with the ground level of the land surrounding the fence, which increases the elevation of the fence, will shall be included in the measurement of the fence height (See section 731-102, Diagram H).
- iv. Fence posts may exceed the maximum height by one (1) foot (See section 731-102, Diagrams G, H, or I).
- v. The fence itself may exceed the maximum height by an amount equal to the accompanying drop in topography along the linear run of the fence at that portion of the lot, and shall only exceed the maximum height at that location. In no case, however, shall the fence height exceed eight (8) feet (See section 731-102, Diagram I).
- vi. Barbed wire, razor wire and similar type wires shall not be permitted in any residential district as a part of a structural barrier except in the D-A District, where it may be used only in conjunction with an agricultural enterprise.
- vii. No structural barrier shall be electrified in any manner which could provide for an electrical shock if touched except in the D-A District, where it may be used only in conjunction with an agricultural enterprise.

(3) *Additional requirements for swimming pools, hot tubs and similar structures.* The following additional requirements shall apply to swimming pools or hot tubs:

- a. A swimming pool or hot tub shall not be located in or on any front yard or closer to any side lot line than the required minimum side yard setbacks of the dwelling district or located closer to any rear lot line than five (5) feet.
- b. The pool or tub area shall be enclosed by either: 1. a fence or other structural barrier, which shall be adequate to prevent persons, children or animals from danger or harm, and shall be equipped with a self-closing, self-latching gate; or 2. a safety pool cover, as defined by, and meeting the specifications of, IAC 20-4-27(c). If a structural barrier is utilized, such structural barrier shall be a chain link, ornamental, or solid fence or wall, and:
 - 1. If erected on grade, the fence shall be not less than five (5) feet in height; or,
 - 2. If erected on the deck of an aboveground pool or hot tub, the fence or structural barrier on the deck shall be not less than thirty-six (36) inches in height.
- c. Screening and landscaping shall be provided and maintained between the pool or hot tub and all lot lines from which the pool or tub area is visible according to the following requirements:
 - 1. Screening shall include any combination of an earthen mound, solid hedge, wall or fence of ornamental block, stone, brick, or solid wood.
 - 2. Effective screening height shall be at least five (5) feet, as measured from grade level, and so constructed or planted to prohibit any view therethrough; and,
 - 3. If fencing is used for screening, such fencing shall be completely opaque when viewed within fifteen (15) degrees of perpendicular to the fence; and,
 - 4. If an earthen mound is used for screening, such earthen mound shall not exceed a maximum height of three (3) feet above grade and the incline shall not exceed a three-to-one (3:1) ratio, with the exception of previously existing natural outcroppings.
- d. Abandoned or unused swimming pools or hot tubs, situated on premises which are not occupied for periods of thirty (30) days or more, shall be drained or equipped with a cover adequate to prevent persons, children or animals from danger or harm.
- e. No pool or hot tub shall be erected or constructed unless adequate distance from overhead electrical wires is provided in accordance with the National Safety Code, and the National Electrical Code, current editions, and until an Improvement Location Permit has been obtained.
- f. All pools or hot tubs which are less than eighteen (18) inches above grade level shall not be considered as part of the building area, as defined in section 731-102.

(4) *Additional requirements for underground storerooms.* The following additional requirements shall apply to all

underground storerooms:

- a. An underground storeroom shall not be located in or on any front yard or closer to any side or rear lot line than the required minimum side and rear yard setbacks of the dwelling district.
- b. No underground storeroom shall be erected or constructed until an Improvement Location Permit has been obtained.

(5) *Additional requirements for recreational vehicles.* The following additional requirements shall apply to the parking or storage of recreational vehicles:

- a. Recreational vehicles may be parked or stored inside permitted buildings or outside in such a manner that no part of any such vehicle shall project into any required side or rear yard as established by the ordinance. Provided further, no part of any such vehicle shall be parked or stored outside in the front yard of the lot other than on the hard-surfaced area of the driveway or interior access drive.
- b. Not more than two (2) recreational vehicles shall be permitted to be parked or stored in the open on the same building lot at any one time.
- c. Parked or stored recreational vehicles shall not be occupied or used for living, sleeping or housekeeping purposes in any dwelling district.

(6) *Additional requirements for game courts.* The following additional requirements shall apply to game courts:

- a. Game courts shall not be located closer to any front, side or rear lot line than the required minimum front, side and rear yard setbacks of the dwelling district, nor shall any part of a game court project beyond the front building line as established by the existing primary building. Basketball goals, however, may be located along a driveway.
- b. Game courts shall not be considered as building area, as defined in section 731-102.
- c. No game court lighting shall produce glare creating a hazard or nuisance perceptible from any point beyond the lot line. Provided, however, no game court in a D-A, D-S, D-1, D-2, D-3, D-4, D-5 or D-5II dwelling district shall be lighted.
- d. Fences built as a component of a regulation game court shall not be subject to the fence height limitations of section 731-219(b)(2)c. Fences which are components of game courts shall not exceed ten (10) feet in height.

(7) *Additional requirements for porches, patios, decks and canopies.* The following additional requirements shall apply to porches, patios, decks and canopies:

- a. Porches, patios and decks, with the exception of attached open railings, shall not be constructed or erected higher than eighteen (18) inches above grade level at any point without having first obtained an Improvement Location Permit.
- b. Porches and patios shall be located no closer than four (4) feet from any property line.
- c. No permanent roof, canopy or similar permanent structure shall be built or established to extend over any porch, patio or deck, other than an eave or cornice overhang from the primary structure, unless the roof or canopy complies with the setback requirements of the dwelling district.
- d. Porches, patios and decks eighteen (18) inches in height, or over, above grade level shall comply with all front and side yard setback requirements of the district and with the rear yard setback requirements for accessory buildings; except, however, open stairs and railings, attached to these structures may encroach into required yards.

(8) *Additional requirements for antennas.*

- a. *Statement of purpose.* The regulations of this subsection are intended to allow antennas to be located in all dwelling districts in a manner that:
 1. Does not unreasonably delay or prevent the installation, maintenance or use of the antenna;
 2. Does not unreasonably increase the cost of installation, maintenance or use; or
 3. Preclude reception of an acceptable quality signal.
- b. *Objectives.* The regulations of this subsection are intended to accomplish the following objectives:

1. Health and safety: The regulations protect the public and safety to the degree that the improper installation of antennas can endanger the lives and property of persons on the property or surrounding property if they collapse or are felled by high winds or ice.

2. General welfare/aesthetic: The regulations limit visual blight by sensitive placement of antennas, as the injudicious location of such antennas, including guy wires, poles, masts, cables and other appurtenant devices can create visual blight offensive to those who reside, work and travel in the city and contrary to the city's comprehensive plan. Further, these regulations are intended to meet these objectives without unnecessarily burdening the federal interests in ensuring access to satellite services and in promoting fair and effective competition among competing communications service providers.

c. *Requirements.* The requirements of this subsection shall apply to any antenna which is greater than one (1) meter/39.37 inches in diameter or diagonal measurement.

1. Installations shall comply with all front, side and rear yard setback requirements specified within the district; except, however, no installation shall be located in such a manner that any part of any such antenna shall project into the front yard as established by the building line of the existing primary building.

2. The maximum height for a ground-mounted antenna shall not exceed the maximum height of an accessory structure permitted by that district (see section 731-219(b)(1)).

3. In any dwelling district, roof-mounted antennas may be permitted, subject to demonstration by the applicant that compliance with section 731-219(b)(8)c.a. and b. of this ordinance would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the control of the applicant.

4. The height of the proposed installation does not exceed the maximum height restriction imposed upon primary uses within the district.

5. All applications for Structural Permits shall include certification by a registered engineer that the proposed installation complies with those standards listed in Section 623.0 and 624.0 of the BOCA Basic Building Code. Furthermore, written documentation of such compliance, including load distribution within the building's support structure, shall be furnished.

6. All roof-mounted installations shall be contained within the area of the roof.

d. *Limitation on enforcement.* No requirement contained in this subsection, section 731-219(b)(8), shall be enforced to the extent it:

1. Unreasonably delays or prevents installation, maintenance or use of an antenna; or

2. Unreasonably increases the cost of installation, maintenance, or use of an antenna; or

3. Precludes reception of an acceptable quality signal by an antenna.

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

(1) Dismantling, repairing or restoring of motor vehicles in dwelling districts: No person shall dismantle, repair, restore or otherwise perform any work on any motor vehicle, machine, motor, or similar device not owned or leased by that person or a member of that person's family, on any property in a dwelling district. In addition, any work performed shall be:

a. Incidental to a permitted use; and,

b. Completely within a garage or carport; or,

c. Completely within an area wholly enclosed from the view of surrounding properties and rights-of-way by a solid structural barrier (either a wall or fence of ornamental block, brick, wood, or combination thereof) of six (6) feet in height.

(2) Storing of inoperable motor vehicles in dwelling districts: no motor vehicle, machine, motor, or similar device from which any part material to the operation of the vehicle has been removed, or which is inoperable for any reason, shall be stored, maintained or kept on any property in a dwelling district unless such device is:

a. Owned or leased by the resident of the property on which it is stored or by a member of that person's family;

and further is,

b. Completely within an accessory structure.

(3) Storing of commercial motor vehicles in dwelling districts: No commercial motor vehicle or trailer shall be parked, stored, maintained or kept on any property in a dwelling district unless:

a. The vehicle has a maximum load capacity of three-quarters (3/4) of a ton or less; and

1. Serves as the sole vehicular transportation of a resident of the property upon which it is parked, stored, maintained or kept; or

2. Such vehicle is within a garage or carport which complies with all the standards and regulations of this ordinance.

Commercial motor vehicles that are in the course of making normal and reasonable service calls are exempt from this provision.

(G.O. No. 100, 1989, § 2, 11-20-89; G.O. No. 150, 1990, § 1(C), 8-27-90; G.O. No. 4, 1992, § 1(K)--(N), 2-24-92; ; G.O. 99, 1993, § 1; G.O. 24, 1995, § 1(B), (C); G.O. 46, 1997, § 1(D), (E); G.O. 47, 1997, § 1(F), (G))

Sec. 731-220. Home occupations.

Statement of purpose. The purpose of this section is to allow residents to conduct certain occupations within their places of residence subject to certain restrictions while protecting the peace, quiet and domestic tranquility within all residential neighborhoods within the county, and to guarantee all residents freedom from excessive noise, excessive traffic, nuisances, fire hazard and other adverse effects of commercial uses being conducted in residential areas.

(a) *Permitted home occupations.* Certain professions and domestic occupations, crafts and services defined below as "permitted home occupations" shall be permitted in all dwelling districts (except the D-11 district) and in any other zoning district in Marion County permitted dwelling uses, provided that each such home occupation complies with all requirements set forth in subsection (b) hereof.

Professions and domestic occupations, crafts or services which, as typically carried out, can be conducted in a dwelling without impairment of the use thereof as a place of residence and with no detrimental effect upon adjacent residential properties, as permitted home occupations. Examples of professional services which constitute permitted home occupations include law, medicine, dentistry, architecture, engineering, real estate brokerage, tutoring, writing, painting, music instruction, photography and such services as are provided by clergymen, insurance agents, notaries public and manufacturer's agents. Examples of domestic occupations, crafts and services which constitute permitted home occupations include dressmaking, millinery, sewing, tailoring, weaving, hair grooming, washing, ironing and cabinet making.

For purposes of this chapter, a child care home shall be considered an accessory use, and not a home occupation.

(b) *Prohibited home occupations.* The following shall serve as a list of prohibited home occupations, including but not limited to:

- Automobile clean-up and tune-up
- Automobile painting
- Automobile repair, or any other automotive-related service
- Bicycle repair
- Contracting services*

*Such as cement masonry, drywall installing and finishing, electrical services, excavating, landscaping, plumbing, hauling, and other similar contractor's services where equipment or materials used in the home occupation(s) are stored on the premises on which such home occupation(s) are conducted.

- Dog grooming
- Dry cleaning
- Funeral services
- Fur finishing
- Interior design (with showroom)
- Kindergarten
- Lawn mower service or repair
- Metal finishing
- Motorcycle repair
- Nursery school
- Suntan salon
- Tow-truck services

Uses otherwise permitted only in the C-4, C-5, C-7, and C-ID commercial zoning districts, and the industrial zoning districts

Veterinary medicine

Water relaxation or recreational services (such as rental of hot tubs or floatation tanks), or other athletic facilities, except those for the exclusive private use of the residents of the dwelling **unit**

Welding

Services as are provided by massage parlors (as licensed by the City of Indianapolis)

(c) *Home occupation requirements.* Permitted home occupations shall comply with each of the following requirements:

- (1) Permitted home occupation(s) shall comply with all standards set forth in section 731-200(b).
- (2) The use of the dwelling **unit** for the home occupation(s) shall be clearly incidental and subordinate to its primary use for residential purposes.
- (3) Permitted home occupation(s) shall not interfere with the reasonable use and enjoyment of adjacent residential properties.
- (4) Hours of operation of the home occupation(s) shall not interfere with the reasonable use of adjacent residential properties.
- (5) No more than a total of six hundred (600) square feet or thirty (30) percent of the total square footage of the dwelling **unit**, whichever is lesser, shall be used in connection with the home occupation(s). The six hundred (600) square feet or thirty (30) percent area which may be used in the conduct of the home occupation(s) shall include all areas in the dwelling **unit** which are in any way devoted or connected with the home occupation(s), including any areas used for accessory storage, accessory display purposes, or waiting reception areas. Provided, however, that the total combined area used for accessory storage, accessory display, and waiting reception area shall not exceed forty (40) percent or two hundred forty (240) square feet, whichever is lesser, of the total square footage permitted for the home occupation(s).
- (6) Any permanent structural alterations to the interior of the dwelling **unit** for purposes of conducting the home occupation(s), which would render it unsuitable for residential use, shall be prohibited.
- (7) Any exterior alterations to the dwelling structure, which would change the residential appearance of such dwelling **unit**, for the purposes of conducting the home occupation(s), shall be prohibited. This shall include the creation of a separate entrance to the dwelling **unit** except where a separate entrance is required by state law.
- (8) Any exterior alterations to any part of the lot, which would change the residential appearance of the lot, for the purposes of conducting the home occupation(s), shall be prohibited, including the creation of an additional parking area, driveway, or turnaround anywhere on the premises to accommodate the customers or clients of the home occupations(s).
- (9) All aspects of the home occupation activity that occur on the premises shall be conducted within the dwelling structure in which the operator makes his actual residence. Only those areas completely enclosed by walls and under the same roof system as the living quarters shall be considered a part of the "dwelling **unit**." No home occupation(s) shall be allowed in any detached accessory structures.
- (10) Any exterior storage or display of materials, goods or articles, supplies or equipment used in the home occupation (s) or produced by the home occupation(s) shall be prohibited either (a) on the premises; or (b) within a detached accessory structure.
- (11) There shall be no deliveries to or from the home occupation(s) by a vehicle having a gross weight in excess of eleven thousand (11,000) pounds.
- (12) The operator of the home occupation(s) shall make the dwelling **unit** within which the home occupation is conducted his legal and primary place of residence. This means that the operator, in addition to making the dwelling **unit** his place of legal residence, shall also carry out more of the activities such as sleeping, eating, entertaining and other functions and activities normally associated with home life in the dwelling **unit** where the home occupation(s) is being conducted than are carried out at any other place.
- (13) No one shall serve in the capacity of an additional operator of the home occupation(s) unless this individual meets the same residence requirements set forth in paragraph (12) above.
- (14) A nonresident assistant shall be permitted to participate in or assist with the conduct or operation of a home occupation subject to the following requirements and limitations:
 - a. Participation by the nonresident assistant shall be in a subordinate capacity only, incidental to the conduct of the home occupation as, for example, the services of a clerical assistant in the home occupation of an accountant

or lawyer.

b. The nonresident assistant shall not participate, totally or partially, in the capacity of an additional practitioner of the professional, craft or occupational service of the operator, or as a partner or professional associate thereof.

c. No more than one (1) nonresident assistant shall be permitted. If more than one (1) home occupation is conducted in the same dwelling **unit**, a nonresident assistant shall be permitted for only one (1) of the home occupations.

(15) The home occupation(s) shall not regularly attract more than four (4) individuals simultaneously onto the premises for reasons related to the home occupation(s) and shall not generate significantly greater traffic volume than would normally be expected in the particular residential area in which the home occupation(s) is conducted.

(16) The use of any part of the lot for off-street parking or loading facilities, other than the existing driveway, interior access drive and parking area shall be prohibited.

(17) No wholesale or retail sales of any goods involving a physical transfer of such goods on the premises on which the home occupation(s) is conducted, other than those clearly incidental and subordinate to the service(s) provided shall be permitted.

(18) No display of goods or external evidence of the home occupation(s) shall be permitted other than a window or wall sign as permitted by the sign regulations of Marion County, Indiana, 71-AO-4, as amended (section 3.20, On-Premise Signs: Dwelling Districts).

(19) No electrical or mechanical equipment incidental to the home occupation(s) shall interfere with local radio and television reception.

(G.O. No. 100, 1989, § 2, 11-20-89; G.O. No. 150, 1990, § 1(D), 8-27-90; G.O. 24, 1995, § 1(D); G.O. 46, 1997, § 1(F))

Sec. 731-102. Definitions.

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

- (1) *Abut*: To physically touch or border upon; or to share a common property line.
- (2) *Access*: The way by which vehicles shall have ingress to and egress from a land parcel or property and the either street fronting along said property or parcel or an abutting alley.
- (3) *Access drive*: That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property. (See Diagram A [not included herein].)
- (4) *Accessory*: A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.
- (5) *Administrator*: Administrator of the Division of Planning or his/her appointed representative.
- (6) *Agricultural enterprise*: The land use of farming, cultivation of crops, dairying, pasturage, horticulture, floriculture, viticulture, animal and poultry husbandry, with the necessary, accompanying accessory use(s), building(s), or structure(s) for housing, packing, treating, or storing said products.
- (7) *Alley*: Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from said lot(s).
- (8) *Alteration*: Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.
- (9) *Antenna*: A device that is designed to receive:
 - a. Direct broadcasts satellite service, including direct-to-home satellite services; or
 - b. Video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or
 - c. Television broadcast signals.
- (10) *Attached multifamily dwelling*: See "Dwelling, multifamily attached."
- (11) *Awning*: A roof-like cover, often of fabric, metal or glass designed and intended to either protect from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or a similar feature.
- (12) *Balcony, exterior*: An unenclosed platform structure supported by and projecting from the exterior side of a building gaining sole access from said building, and designed and intended for either decorative purposes or lounging, dining, and similar activities.
- (13) *Basement*: That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half (1/2) or more of its interior vertical height clearance below grade level.

(14) *Bathhouse*: An accessory building of one (1) or more rooms not open to the public, designed and intended for exclusive use by occupant(s) of the primary use and their guest(s) as dressing room(s) and may or may not include sanitary facilities.

(15) *Bed and breakfast*: The commercial leasing of bedroom(s) for guest(s) within a private, owner-occupied, one- or two-family dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee. Such leasing may also provide for the temporary accommodation of daytime meetings or receptions for guests for a fee. Such leasing caters largely to tourists and the travelling public.

(16) *Boardinghouse*: A community facility, other than hotels, motels, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants thereof, is provided for a fee.

(17) *Buildable area*: The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met. (See Diagram B [not included herein].)

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

(19) *Building area*: The total ground area, within the lot or project, covered by the primary structure, plus garages, carports and other accessory structures which are greater than eighteen (18) inches above grade level, excluding fences and walls not attached in any way to a roof (See Diagram B [not included herein].)

(20) *Cabana*: Same as "Bathhouse".

(21) *Canopy*: A rooflike cover, often of fabric, metal, or glass on a support, which is supported in total or in part, from the ground providing shelter over a doorway or outside walk.

(22) *Carport*: A roofed structure designed and intended to shelter the automotive vehicle(s) of the premises' occupant(s) or owner(s), with at least one (1) side permanently open to the weather.

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

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

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

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

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

b. The term includes:

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

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

a. A child care home that serves any combination of full-time and part-time

children, not to exceed twelve (12) children at any one (1) time.

b. A child:

1. For whom the provider of care is a parent, stepparent, guardian, custodian or other relative; and
2. Who is at least seven (7) years of age;

shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

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

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

b. A child:

1. For whom the provider of care is a parent, stepparent, guardian, custodian, or other relative; and
2. Who is at least seven (7) years of age;

shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

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

(29) *Cluster subdivision:* A form of development for single-family residential subdivisions that permits a reduction in the minimum lot: area, width, setback and open space requirements and to concentrate development in specific areas of the subdivision while also maintaining the same overall density permitted under a conventional subdivision in a given zoning district, and, the remaining land area is devoted to open space, or recreational areas in perpetuity.

(30) *Collector street:* See "Street, collector".

(31) *Commission:* The Metropolitan Development Commission of Marion County, Indiana.

(32) *Commitment:* An officially recorded agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

(33) *Comprehensive plan:* The applicable comprehensive or master plan for Marion County, Indiana, or a segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4-500 Series, and all acts amendatory thereto.

(34) *Condition:* An official agreement between the municipality and the petitioner concerning the use or development of the land as specified in the letter of grant of a variance, special exception or approval petition as signed by the Administrator.

(35) *Condominium:* A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis.

(36) *Corner lot:* See "Lot, corner".

(37) *Covenant:* A private legal restriction on the use of land contained in the deed, plat and other legal documents pertaining to the property.

(38) *Covenant, parol:* A verbal, binding agreement, made at a public parol hearing, restricting the use of the land.

- (39) *Covered open space*: See "Open space, covered".
- (40) *Crown of the street*: The highest point of pavement between the existing curb lines of a street cross-section, most often at the centerline.
- (41) *Cul-de-sac*: See "Street, cul-de-sac".
- (42) *Curb cut*: The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street. (See Diagram A [not included herein].)
- (43) *Curb line*: A line located on either edge of the pavement, but within the right-of-way line. (See Diagram A [not included herein].)
- (44) *Deck*: A ground-supported, unenclosed, accessory platform structure, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised eighteen (18) inches or more above grade level designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.
- (45) *Double dwelling*: Same as "Dwelling, two-family".
- (46) *Drip line*: The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.
- (47) *Driveway*: Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line. (See Diagram A [not included herein].)
- (48) *Duplex*: Same as "Dwelling, two-family".
- (49) *Dwelling, manufactured home*: A unit which is fabricated in one (1) or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process. Every module shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. The unit must have been built after January 1, 1981, have at least nine hundred fifty (950) square feet of main floor area (exclusive of garages, carports, and open porches), and exceed twenty-three (23) feet in width.
- (50) *Dwelling, mobile*: A movable or portable unit fabricated in one (1) or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process. The unit is designed for occupancy by one (1) family, and erected or located as specified by Chapter 8, Article III, Division IV of the Code of Indianapolis and Marion County, and which was either:
- a. Constructed prior to June 15, 1976, and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or,
 - b. Constructed subsequent to or on June 15, 1976, and bears a seal certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.
- (51) *Dwelling, modular home*: A unit which is fabricated in one (1) or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process, designed for occupancy by one (1) family unit. Every module shall bear the seal certified that it was built in compliance with Indiana Public Law 360. The unit must have been built in compliance with the CABO One- and Two-Family Dwelling Code.
- (52) *Dwelling, multifamily*: See "Dwelling, attached multifamily".
- (53) *Dwelling, attached multifamily*: A building for residential purposes with three (3) or more dwelling units, having common or party walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).

- (54) *Dwelling, single-family*: A site-built building for one (1) dwelling unit.
- (55) *Dwelling, two-family*: A building designed originally for residential occupancy by two (2) families living independently of each other, which contains two (2), legally complete, dwelling units. Each unit in a two-family dwelling is completely separated from the other by either; a) an unpierced wall extending from ground to roof; or, b) an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
- (56) *Dwelling unit*: One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.
- (57) *Erect*: Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.
- (58) *Excavation*: The breaking of ground, except common household gardening, ground care and agricultural activity.
- (59) *Family*: One (1) or more human beings related by blood, marriage, adoption, foster care or guardianship together with incidental domestic servants and temporary, noncompensating guests; or, not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.
- (60) *Fence*. A type of structural barrier usually made of posts supporting such items, by way of example, as chain link, wood pickets, lattice-work, and similar items.
- (61) *Finished floor area*: That portion of floor area constructed, completed and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, sanitary, or combination thereof. A floor area or portion thereof used only for storage purposes and not equipped with the facilities previously identified shall not be considered finished floor area.
- (62) *Floor area*: For one- and two-family dwelling units, the sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such buildings or portions thereof. The floor area of a building shall exclude all areas with a vertical height clearance less than seventy-eight (78) inches, exterior open balconies, and open porches.

For attached or detached multifamily dwelling(s), the sum of all horizontal surface areas of all floors of all roofed portions of all buildings enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such buildings or portions thereof.

However, this does not include the following:

- a. All areas with a vertical height clearance less than seventy-eight (78) inches;
- b. All exterior open balconies, and open porches;
- c. Floor or basement floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space;
- d. Floor or basement floor area provided for recreational uses, available to occupants of two (2) or more living units within a project; or
- e. Basement floor area provided for storage facilities, allocated to serve individual living units within a project.

- (63) *Floor area ratio (FAR)*: The aggregate floor area of all stories of all buildings within the project divided by the land area.

- (64) *Front lot line*: See "Lot line, front".
- (65) *Front yard*: See "Yard, front".
- (66) *Frontage*: The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.
- (67) *Frontage, public street*: The line of contact of abutting property with the public street along the front lot line which allows unobstructed direct access to the property.
- (68) *Full control of access*: The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access said property(ies), including the location and connection with public streets, is controlled by public authority. Full control of access gives preference to through vehicular traffic movement, by providing access connections with selected public streets only, and by prohibiting both crossings at grade and direct driveway connections.
- (69) *Game court*: A type of recreation facility which consists of an unpaved or paved, accessory, surface area of ground open and essentially unobstructed to the sky, on the same lot as the primary structure, designed and intended for the playing of a recognized sport as an accessory, recreational activity by the occupants and guests of the primary structure, which may include fencing, screening, nets, goals, or other necessary appurtenances required for the recreational use.
- (70) *Garage, residential*: A building accessory to a residential use, or an enclosed area attached or integrated into a residential building, which is primarily designed and intended to be used for the storage of the private vehicle(s) for the occupant(s) of said residence and is not a separate commercial enterprise available to the general public.
- (71) *Gazebo*: A roofed, ground-supported, unenclosed, accessory platform structure, usually constructed of wood, stone, brick, or metal designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.
- (72) *Grade, established street*: The crown elevation of a street pavement level abutting the property as fixed by the appropriate government agency(ies).
- (73) *Grade level (adjacent ground elevation)*: The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from said walls, between said walls and a line ten (10) feet away from and paralleling said walls.
- (74) *Gross acre*: A horizontal measure of land area equal to forty-three thousand five hundred sixty (43,560) square feet.
- (75) *Ground cover*: Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, or a similar feature.
- (76) *Ground floor*: That story which contains finished floor area closest to but not below grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.
- (77) *Group home*: A residential facility for the developmentally disabled (as defined by IC 12-7-2-166) or a residential facility for the mentally ill (as defined in IC 12-7-2-167), licensed by the Community Residential Facilities Council, or its successor in authority in accordance with a program described in:
- a. IC 12-11-1 (residential facility for the developmentally disabled); or
 - b. IC 12-22-2-3(2) through 12-22-2-3(6) (residential facility for the mentally ill).
- (78) *Handicap ramp*: Same as "Pedestrian ramp".
- (79) *Hard-surfaced*: Quality of an outer area being solidly constructed of pavement, brick, paving stone, tile, wood, or a combination thereof.

(80) *Hedge*: A row or rows of closely planted shrubs, bushes, or combination thereof creating a vegetative barrier.

(81) *Height, building*: The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

a. The elevation of the highest adjoining sidewalk or ground surface within a ten (10) foot horizontal distance from and paralleling the exterior wall of the building or structure when said sidewalk or ground surface is not more than ten (10) feet above lowest grade; or

b. An elevation ten (10) feet higher than the lowest grade when said sidewalk or ground surface is more than ten (10) feet above the lowest grade.

(82) *Heliport*: An area of land, water or structural surface which is used, or intended for use, for the lawful landing and takeoff of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and auxiliary facilities, such as, parking areas, waiting rooms, fueling, storage and maintenance equipment areas.

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

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

a. A legally established dwelling unit, or;

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

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

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

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

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

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

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

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

requirements of the zoning district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

exposed to the weather, but not open above to the sky. It includes porches, carports, covered exterior balconies and exterior spaces covered by portions of buildings.

(122) *Open space, uncovered*: In D-6, D-6II, D-7, D-8, D-9, D-10 and D-11 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II and D-12 districts; and D-8 single- and two-family dwellings: the lot area, minus the building area.

(123) *Open space ratio (OSR)*: The open space divided by the floor area.

(124) *Parking area*: An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space. (See Diagram A [not included herein].)

(125) *Parking space*: An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle. (See Diagram A [not included herein].)

(126) *Part-time*: A period of at least twenty-five (25) percent less than a regular or customarily full schedule of a specific activity, such as employment.

(127) *Partial control of access*: The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access said property(ies), including the location and connection with public streets, is controlled by public authority. Partial control of access gives preference to through vehicular traffic movement to a degree that, in addition to access connections with selected public streets, there may be crossings at grade and some driveway connections.

(128) *Patio*: A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one (1) side open to the weather and essentially unobstructed to the sky. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles. (See also "Deck.")

(129) *Patio, covered*: A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one (1) side open to the weather and permanently roofed or similarly covered. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles.

(130) *Paved-stand*: A permanent area specifically designed and intended for the location, securing, and use of a mobile dwelling on a non-temporary basis encompassing completely the area immediately below or covered by such dwelling including necessary plumbing, power, and other utility installations. The mobile dwelling's foundation, consisting of runners, ribbons or piers, usually made of concrete for the purpose of blocking the dwelling, are within this area.

(131) *Pavement*: A layer of concrete, asphalt or coated macadam used on street, sidewalk, or airport surfacing.

(132) *Paving*: See "Pavement".

(133) *Pedestrian ramp*: An inclined access opening along the curblin at which point pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, may enter or leave the street; or, an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, access from the ground to an elevated surface.

(134) *Perimeter yard*: See "Yard, perimeter".

(135) *Permitted use*: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

(136) *Plat*: An officially recorded map, as recorded in the Office of the Marion County Recorder, or a map intended to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and

easements.

(137) *Porch*: A roofed structure with at least one (1) side exposed to the weather, supported from the ground and attached to or part of a building at the area of entrance or exit to said building.

(138) *Porte-cochere*: A roofed, sheltering structure supported from the ground and attached to or a part of a building, which projects over an entrance/exit, walkway, driveway, or similar feature.

(139) *Primary building*: The building in which the permitted primary use of the lot is conducted.

(140) *Principal homestead*: The dwelling unit in which the primary users of the agricultural enterprise reside.

(141) *Project*: A lot or parcel of contiguous land to be developed for a use or uses permitted in the D-6, D-6II, D-7, D-8, D-9, D-10, D-11 dwelling districts, which at the time of development is under one (1) ownership or control, and subsequently may be subdivided, developed, or conveyed into smaller lots or parcels.

(142) *Project boundaries*: The perimeter lot lines encompassing the entire project as indicated in the Office of the Marion County Recorder.

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

(144) *Public street frontage*: See "Frontage, public street".

(145) *Rear yard*: See "Yard, rear".

(146) *Recreation facility*: A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.

(147) *Recreation facility, commercial*: A recreation facility operated as a for profit business and open to the public for a fee.

(148) *Recreation facility, personal*: A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests without a fee.

(149) *Recreation facility, private*: A recreation facility operated by a nonprofit organization, and open only to bona fide members and guests of such nonprofit organization.

(150) *Recreation facility, public*: A recreation facility operated by a governmental agency and open to the general public.

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

(152) *Religious use*: A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

(153) *Residential in character*: Possessing the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height,

bulk, materials, detailing and similar features.

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

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

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

(157) *Setback*: The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line. (See Diagram B [not included herein].)

(158) *Setback line*: A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line. (See Diagram B [not included herein].)

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

(160) *Shrub*: A woody plant of relatively low height branching from the base not exceeding ten (10) to twelve (12) feet in height.

(161) *Side yard*: See "Yard, side".

(162) *Sidewalk*: A hard-surfaced walk or raised path along and paralleling the side of the street for pedestrians.

(163) *Single-family dwelling*: See "Dwelling, single-family".

(164) *Skirting*: The rigid physical attachments to a mobile dwelling designed and intended to completely screen, shelter, and protect the unit's base and entire area between the unit's floor surface and the ground surface, which includes, but not limited to, all electrical and plumbing conduits, insulation material, and undercarriage.

(165) *Site plan*: The development plan, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot as required by ordinance, in order that an informed decision can be made by the approving authority.

(166) *Storage area*: An area designated, designed and intended for the purpose of reserving personal property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

(167) *Storage room*: An enclosed area integrated into and sharing common or party wall or walls within a primary building, while designed and intended for the purpose of reserving personal property for a future use.

(168) *Story*: That part of a building, with an open height of no less than seventy-eight (78) inches, except a mezzanine, included between the upper surface of one (1) floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a story only if it provides finished floor area.

(169) *Street, collector*: A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets, collectors, and arterials with direct access to abutting property(ies). (See Diagram D [not included herein].)

(170) *Street, cul-de-sac*: A street having only one (1) open end and being permanently terminated by a vehicle turn around. (See Diagram D [not included herein].)

(171) *Street, expressway*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at relatively high speeds (e.g., forty-five (45) mph) with partial control of access. The function of an expressway is primarily to move traffic rather than to serve abutting property(ies). Access control on an expressway is characterized by medians, marginal access streets and selective intersection location.

(172) *Street, freeway*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at high speeds (e.g., fifty-five (55) mph) with full control of access. The primary function of a freeway is the movement of traffic, particularly long trips made within or through the county.

(173) *Street, local*: A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies). (See Diagram D [not included herein].)

(174) *Street, marginal access*: A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies). (See Diagram D [not included herein].)

(175) *Street, parkway*: Any street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, with partial control of access thereto, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and thoroughfare plan. Partial control of access to a parkway permits access connections only at street intersections.

(176) *Street, primary arterial*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite and channelize high volumes of vehicular traffic movement at moderate speeds (e.g., thirty-five (35) to forty-five (45) mph) between arterials, expressways, and freeways with partial control of access. The function of a primary arterial is primarily to move traffic rather than to serve abutting property(ies).

(177) *Street, private*: A privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and similar features.

(178) *Street, public*: A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

(179) *Street, secondary arterial*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite medium to high volumes of vehicular traffic movement at moderate speeds (e.g., thirty-five (35) to forty-five (45) mph) between collectors, arterials, expressways, freeways, and abutting property(ies) with partial control of access. Secondary arterials carry a higher percentage of short trips than do primary arterials.

(180) *Structural barrier*: A physical structure, such as a fence, wall, or railing, that forms a boundary of, or enclosure to, a property or acts as a division between properties.

(181) *Structure*: A combination or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

(182) *Subdivision*: The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development, provided however, that the division of land into parcels of more than three (3) acres, not involving any new streets or easements of access, and the transfer or exchange of parcels between adjoining landowners, if such transfer or exchange does not create additional building lots, shall not constitute a subdivision for purposes of this ordinance.

(183) *Temporary use*: An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

(184) *Terrace*: An open, raised bank or banks of earth having vertical or sloping side(s) and a horizontal top.

(185) *Thoroughfare*: A street primarily serving thorough vehicular traffic, including freeways, expressways, primary thoroughfares, and secondary thoroughfares as designated by the thoroughfare plan.

(186) *Thoroughfare plan*: The applicable segment of the comprehensive or master plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to Chapter 283 of the Acts of the Indiana General Assembly for 1955, and all acts amendatory thereto, which sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary thoroughfares, secondary thoroughfares, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

(187) *Through lot*: See "Lot, through".

(188) *Total car ratio (TCR)*: The total number of parking spaces divided by the number of dwelling units.

(189) *Total floor area*: The aggregate floor area of all stories of the primary buildings or structures.

(190) *Trash enclosure*: An accessory structure enclosed on all sides, possessing a solid, securable door or gate for access designed and intended to completely screen and protect waste receptacles from view on all sides, and to prevent waste debris from dispersal outside the receptacles or enclosure.

(191) *Tree survey*: An inventory of all trees on a lot or project prior to any site development preparation, identifying species, location, caliper, and drip line of trees.

(192) *Two-family dwelling*: See "Dwelling, two-family".

(193) *Uncovered open space*: In D-6, D-6II, D-7, D-8, D-9, D-10, D-11 and D-12 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-8, and D-12 districts: the lot area, minus the building area.

(194) *Underground storeroom*: An accessory structure which is at least seventy-five (75) percent subterranean, utilized for storage of personal property or a temporary shelter for people, such as a fallout shelter.

(195) *Unit*: A single, complete entity.

(196) *Usable roof area*: The total roof area, within the project or residential buildings, garages and accessory buildings which has been improved for outdoor uses of occupants. Roof areas used for the storage of automotive vehicles are included.

(197) *Vehicle area*: Uncovered or covered area used for vehicular traffic, maneuvering and parking. Included are all parking areas, driveways, interior access drives and rights-of-way of all streets and alleys within the project, plus the area of half of any abutting alley or street rights-of-way.

(198) *Walkway*: A hard-surfaced walk or raised path for pedestrians.

(199) *Yard, front:* An open space unobstructed to the sky, extending fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B [not included herein].)

(200) *Yard, interior:* An open space unobstructed to the sky, extending fully across the mobile dwelling site while situated between the edge of pavement of the street or interior access drive and a line paralleling thereto, which passes through the nearest point of any building or structure and terminates at the intersection of the individual mobile dwelling site's boundary lines.

(201) *Yard, perimeter:* A required yard of a project, in addition to front, rear and side yards, situated between and extending along the project boundary and an interior line paralleling thereto. The width of said yard shall be determined by the applicable zoning district zoning classification of the ordinance. (See Diagram E [not included herein].)

(201) *Yard, rear:* An open space unobstructed to the sky extending fully across the lot situated between the rear lot line and a parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B [not included herein].)

(202) *Yard, side:* An open space unobstructed to the sky extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first. (See Diagram B [not included herein].)

(G. O. No. 100, 1989, § 2, 11-20-89; G.O. No. 150, 1990, § 1(E), 8-27-90; G. O. No. 4, 1992, § 1 (Q), 2-24-92; G.O. 24, 1995, § 1(E), (F); G.O. 46, 1997, § 1(G), (H); G.O. 47, 1997, § 1(I); G.O. 2, 2002, § 5)

Cross references: Definitions generally, ch. 102.

Sec. 621-118. Parking of certain trucks and commercial vehicles restricted.

(a) *Overnight parking.* It shall be unlawful for the owner, operator or driver of commercial vehicle or truck if such vehicle has more than two (2) axles, or for the person in charge thereof, to park such vehicle or to permit it to be parked or to stand upon any street or alley in the city between the hours of 12:00 midnight and 6:00 a.m. for a period of time longer than one (1) hour.

(b) *Residence districts.* It shall be unlawful for the owner, operator or driver of any truck with more than two (2) axles (including the truck-tractor of a semi tractor-trailer), or for the person in charge thereof, to park such vehicle on or to permit it to be parked or to stand upon any street or alley in a residential district for a period of time longer than one (1) hour, except household or other moving or delivery trucks while actually loading or unloading property for adjacent residences or service trucks of persons while engaged in service calls at adjacent residences.

(Code 1975, § 29-264)

Sec. 531-202. Permanent identification of dogs and cats required.

(a) A person who owns a dog or cat in the city shall ensure that each dog or cat owned by that person bears a permanent means of identification at all times, such that the owner of a lost or stolen dog or cat can be ascertained quickly and easily.

(b) The means of identification required by this section shall be in addition to any tags required to be worn by dogs or cats by state law or other provision of this Code, and shall include either:

- (1) A microchip implanted in the dog or cat which bears a registered identification number, and which can be read by a standard microchip scanner; or
- (2) A permanent tag attached to a durable collar worn at all times by the dog or cat, and bearing the owner's current name, address and telephone number.

(c) Each veterinarian or other person in the city who implants microchips as contemplated in this section shall, at an interval of not less than once each month, send to the animal care and control division the names, addresses, and phone numbers of the owners of the dogs and cats, and the corresponding microchip identification numbers.

(d) It shall be unlawful for a person to own a dog or cat three (3) months of age or older which is kept in the city, and which does not bear a permanent means of identification as provided in this section. A violation of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than one hundred dollars (\$100.00).

(G.O. 30, 1998, § 1; G.O. 169, 1999, § 3)

Sec. 531-203. Dog and cat curbing requirements.

(a) No person knowingly shall allow a dog or cat which is kept by that person to defecate or urinate on a public street, byway, municipally owned or public land or building, or upon private property, in the city without the prior permission of the owner of such property; however, if an animal defecates on property described in this subsection, the animal's owner or keeper promptly shall remove any feces to a waste container, or otherwise dispose of such material in a manner inoffensive to reasonable public sensibilities.

(b) Notwithstanding the provisions of subsection (a) of this section, the owner of a dog serving a vision-impaired person in an auxiliary ocular capacity or in any capacity to assist such person with a physical impairment may permit such dog to relieve itself on ground situated outside of pedestrian or vehicular traffic ways, and is relieved of the requirement to remove any feces to the extent such requirement is impractical for a person of such impairment.

(c) No person knowingly shall allow his or her dog or cat to disperse waste material placed for public or private collection upon any public street, or byway or right-of-way, or any municipally owned or public land or building, or upon private property.

(d) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than twenty -five dollars (\$25.00).

(G.O. 30, 1998, § 1; G.O. 169, 1999, § 3)

Sec. 531-204. Animals causing nuisance prohibited.

(a) It shall be unlawful for a person to own or keep any animal which by frequent or habitual howling, yelping, barking, screeching, other vocalization or otherwise shall cause serious annoyance or disturbance to persons in the vicinity.

(b) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for the first such violation shall not be less than twenty-five dollars (\$25.00); subsequent or continued violations may also subject the owner to impoundment of the animal by a person having authority to impound such an animal.

(G.O. 30, 1998, § 1; G.O. 169, 1999, § 3)

Sec. 531-205. Vicious, fierce or dangerous animals; confinement required.

(a) For purposes of this section, the words *vicious, fierce or dangerous animal* mean and include an animal which has:

- (1) Attacked a person without having been provoked by that person;
- (2) Attacked, at some place other than its owner's or keeper's property, another animal;
or
- (3) Chased or approached a person at some place other than its owner's or keeper's property, in a menacing fashion or apparent attitude of attack.

(b) It shall be unlawful for an owner or keeper of a vicious, fierce, or dangerous animal to cause, suffer, or allow it to go unconfined and unrestrained on the owner's or keeper's premises, or to run at large, in the city.

(c) It shall be unlawful in the city for an owner or keeper of a vicious, fierce or dangerous animal to walk any such animal or otherwise cause, suffer or allow its presence upon a public street or byway, right-of-way, or municipally owned or public land or building, or upon private property without permission of the owner thereof.

(d) It shall be the duty of any person with the authority to impound an animal forthwith to impound any vicious, fierce or dangerous animal found unconfined or running at large in violation of this section.

(e) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than five hundred dollars (\$500.00). If the violation results in the animal causing serious bodily injury to any person, the court upon request shall order the animal forfeited and/or destroyed.

(G.O. 30, 1998, § 1; G.O. 169, 1999, § 3)

Sec. 531-208. Lost or stray domestic animals.

- (a) Persons finding a stray animal are to notify the animal care and control division within forty-eight (48) hours. At the discretion of the division, the animal may be kept by the finder and a found report left with the division, to enable the finder an opportunity to return the animal to its rightful owner.
- (b) Upon demand, by the animal care and control division, any found animal will be taken to an appropriate facility and scanned for an identifying microchip.
- (c) Persons finding an animal are obligated to comply with all the rules and regulations of this chapter pertaining to humane care and treatment of animals, while said animal is in their custody awaiting return to its actual owner.
- (d) With the exception of the Humane Society of Indianapolis or other humane and/or breed rescue organizations recognized by the animal care and control division, the finder will be considered the found animal's owner for purposes of this chapter only after the animal is in the finder's custody for thirty (30) continuous days.

(G.O. 169, 1999, § 3)