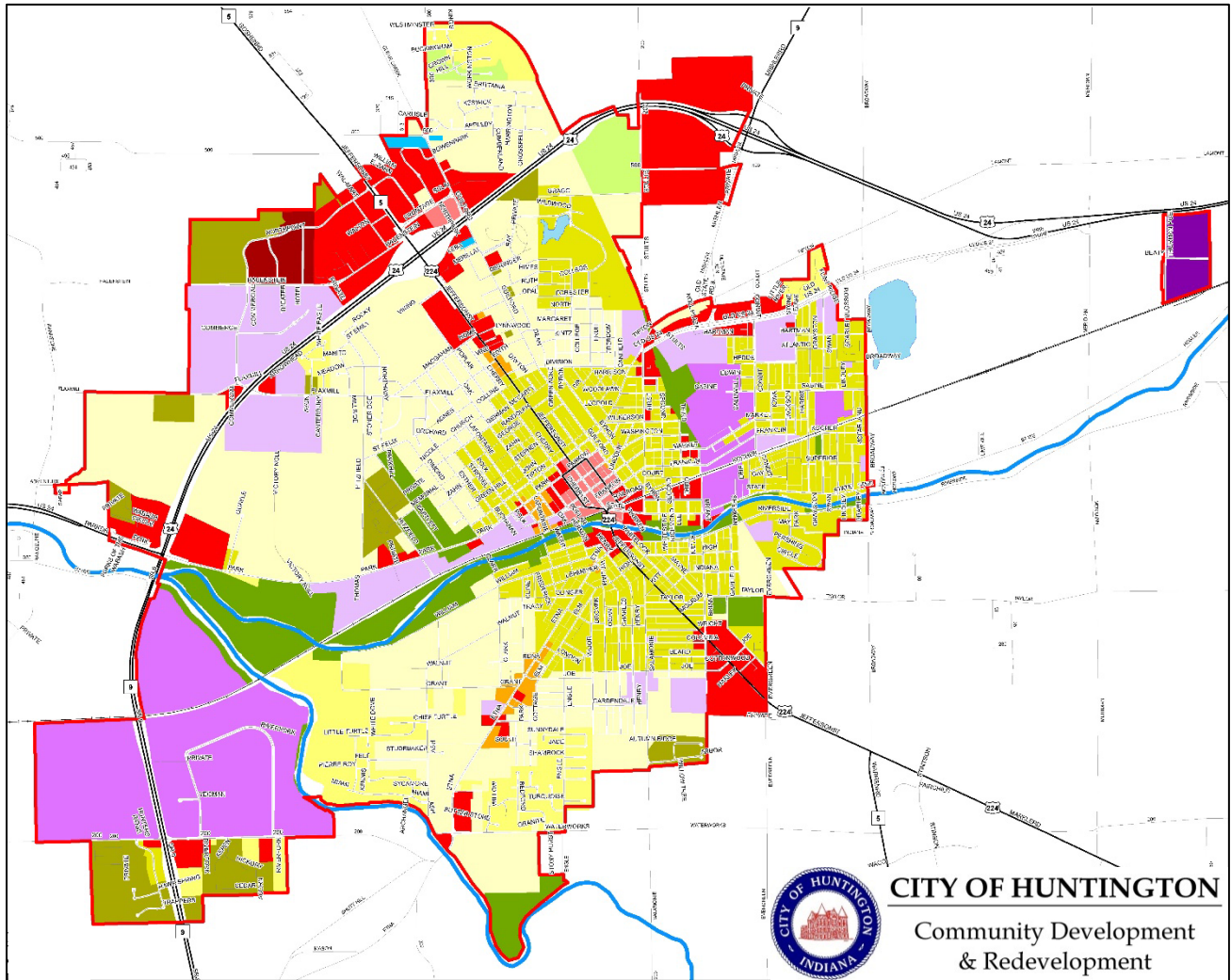


# CITY OF HUNTINGTON, INDIANA



## ZONING ORDINANCE REFERENCE BOOK

*Updated March 14, 2023*



# CITY OF HUNTINGTON, INDIANA

## ZONING CODE

### REFERENCE FORMAT

The City of Huntington Community Development & Redevelopment Department has codified the Zoning Code and all amendments adopted prior to September 9, 1997 into this reference document. Every attempt has been made to ensure the accuracy and correctness of this document.

Wherever the requirements of this document are at variance with the officially published Code of Ordinances for the City of Huntington, Indiana, the provisions of the Code of Ordinances shall govern.

By publication of this document, the City of Huntington, Indiana, and its Community Development & Redevelopment Department do not assume any liability for any errors or omissions.

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**HUNTINGTON CITY ZONING ORDINANCE**  
**Table of Contents**

<u>Section No.</u>	<u>Title</u>
<i><u>General Provisions</u></i>	
158.001	Title, General Provisions
158.002	Purpose and Intent
158.003	Compliance Required
158.004	Jurisdictional Area
158.005	Definitions
<i><u>Zoning Districts</u></i>	
158.015	Division of City into Districts, Zoning Map, District Boundaries
158.016	Flood Damage Prevention Overlay District
158.017	Conservation Districts
158.018	Residential Districts
158.019	Business Districts
158.020	Industrial Districts
158.021	Mixed Use District
158.022	Airport Height Restrictions Overlay District
158.023	Professional Office District
158.024	Agricultural District
158.025	Business Park District
158.026	Industrial Park District
158.027	Airport District
<i><u>Usage Regulations</u></i>	
158.030	Signs
158.035	Schedule of Permitted Uses, Special Exceptions
158.036	Nonconforming Structures and Uses
158.037	Accessory Structures and Uses
158.038	Development Standards
158.039	Height Exceptions
158.040	Off Street Parking
158.041	Mobile Home Parks
158.042	Mobile Homes, Modular Homes, Exceptions
158.043	Mobile Dwelling Units
158.044	Planned Unit Projects
158.045	Temporary Structures
158.046	Home Occupations
158.047	Child Care Facilities
158.048	Awnings
158.049	Flood Damage Prevention

<u>Section No.</u>	<u>Title</u>
<i><u>Airport Height Restrictions</u></i>	
158.050	Intention of Subchapter
158.051	Definitions
158.052	Zones
158.053	Height Limitations
158.054	Use Restriction
158.055	Nonconforming Structures
158.056	Permits
158.057	Enforcement
158.058	Conflicting Regulations
158.059	Indiana High Structure Safety Act, Federal and State
<i><u>Manufactured Housing in Residential Districts</u></i>	
158.060	Intention of Subchapter
158.061	Definitions
158.062	Permitted Placement, Special Exception
158.063	Structural Alteration
158.064	Removal of Home upon Violation, Method of Removal
158.065	Appeals
<i><u>Professional Office District</u></i>	
158.066	Professional Office District
<i><u>Business Park District</u></i>	
158.073	Business Park District
<i><u>Industrial Park District</u></i>	
158.074	Industrial Park District
<i><u>Advisory Board of Zoning Appeals</u></i>	
158.075	Rules of Procedure
158.076	Exceptions and Uses
158.077	Zoning Annexed Land
<i><u>Agriculture</u></i>	
158.080	Livestock operations
<i><u>Administration</u></i>	
158.106	Improvement Location Permit
158.107	Schedule of Fees, Charges and Expenses
158.108	Completion of Existing Buildings
158.109	Written Commitment

Section No.    Title \_\_\_\_\_

*Development Plan*

- 158.110      Development Plan Required
- 158.111      Application for Development
- 158.112      Development Requirements
- 158.113      Development Plan Review
- 158.114      Waiver of Development Requirements
- 158.115      Conditions of Approval
- 158.116      Amendment of Approval of Development Plan
- 158.117      Duration of Approval of Development Plan
- 158.118      Limitation of Authority
- 158.119      Appeals

*Violations and Penalties*

- 158.201      Violations
- 158.202      Penalty
- 158.203      Enforcement Official
- 158.999      Penalty



## **GENERAL PROVISIONS**

### **SECTION 158.001      TITLE, GENERAL PROVISIONS**

- A. This Chapter shall be known and may be cited as the Zoning Ordinance of the City of Huntington, Indiana.
- B. This Chapter is adopted pursuant to IC 36-7-4, as amended.
- C. In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- D. The provisions of this Chapter are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this Chapter imposes restrictions different from those imposed by any other provision of this Chapter or any other ordinance, rule or regulations, or other provision of those provisions, which are more restrictive or impose higher standards shall control.
- E. The provisions of this Chapter are not intended to abrogate any easement, covenant or any other private agreement or restriction (hereinafter collectively referred to as private provisions), provided that where the provisions of this Chapter are more restrictive or impose higher standards or regulations than such private provisions, the requirements of this Chapter shall govern. Where the provisions of the private provisions impose duties and obligations more restrictive, or set forth-higher standards than the requirements of this Chapter, or the determinations of the Plan Commission in enforcing the provisions of this Chapter, and such private provisions are not inconsistent with enforceable Chapter provisions or determinations there under, then such private provisions shall be operative and supplemental to the provisions of this Chapter and determinations made there under Private provisions may not be enforced by the Plan Commission unless the Plan Commission, with its approval has been made a party to such private provisions.

### **SECTION 158.002      PURPOSES AND INTENT**

The purposes of this Chapter are as provided in IC 36-7-4-201.

### **SECTION 158.003      COMPLIANCE REQUIRED**

No building or structure shall be constructed, erected, moved, converted, enlarged, or located; nor shall any building, structure, or land be used, except in full compliance with all the provisions of this chapter.

### **SECTION 158.004      JURISDICTIONAL AREAS**

This chapter shall apply to all incorporated land within the city and any contiguous unincorporated area where the Plan Commission has exercised its extraterritorial jurisdiction under IC 36-7-4-205.



## **SECTION 158.005      DEFINITIONS**

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

Accessory Structure - A detached building or structure incidental and accessory to the principal building or structure.

Accessory Use - A use incidental to, and on the same lot as, a principal use.

Agricultural Buildings - A structure principally utilized for the storage of machinery used for purposes of crop production or for the shelter and feeding of livestock.

Agriculture - The use of land for crop production and/or raising of livestock.

Alley - A public or private street primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Board - The Huntington City Board of Zoning Appeals

Buffer - Land area used to visibly separate one (1) use from another or to shield or block noise, lights, or other potential nuisances.

Building - A structure having a roof supported by columns or walls designed, built, or used for the enclosure, shelter, or protection of persons, animals, or property.

Building Area - The area within the outside perimeter of exterior walls of the ground floor of a building.

Building, Detached - A building that has no structural connection with another building.

Building Height - The vertical distance measured from the established grade to the highest finished roof structure, including any roof top superstructure or appurtenance.

Building Line - The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

Building Pad - The area of land upon which a building is constructed, wherein ownership may or may not be separate from the ownership of common areas. Building pad(s) are typically found in a planned, unified development.

Business Office - The office of a business designed and used primarily to conduct the administrative and clerical affairs of the business.

Business Park - A development on a tract of land that contains a number of separate businesses, offices, light manufacturing facilities, accessory and supporting uses, and common open space designed, planned and constructed on an integrated and coordinated basis.

Cemetery - Land used for the burial of the dead and dedicated for cemetery purposes, including columbarium's, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of the cemetery.

Certificate of Occupancy - A certificate issued by the Building Commissioner stating that the occupancy and use of the land or a building or structure referred to therein complies with the provisions of this chapter.

Clinic - An establishment where patients are admitted for special study and treatment by two or more licensed physicians and their professional associates, practicing medicine together.

Commission - The Huntington City Plan Commission.

Common Area - The total area available for common use by all owners, tenants, occupants and their invitees, including but not limited to parking lots and their appurtenances, lobbies, malls, sidewalks, landscaped areas, public restroom facilities, and loading and service facilities.

Department - The Community Development and Redevelopment Department.

Development - The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings; use or change in use of any buildings or land; or any extension of any use of land or any clearing, grading or other movement of land under the jurisdiction of any local land use authority.

Development Plan - A specified plan, as required by this Zoning Code, for the development of real property.

Development Requirement - A requirement for development of real property in a zoning district for which a development plan is required.

Director - Director of Community Development and Redevelopment Department.

District - A section of the territorial jurisdictional area of the City Plan Commission for which uniform regulations governing the use, height, area, size, and intensity of the building and land, and open space about buildings, are established by this chapter.

Dwelling - A building or portion thereof, used primarily as a place to live for one or more people, but not including hotels, lodging or boarding houses, or tourist homes.

Dwelling, Multiple Family - A building or portion thereof used for occupancy by three or more families living independently of each other.

Dwelling, One-Family - A building used for occupancy by one family.

Dwelling, Two-Family - A building used by two families living independently of each other.

Dwelling Unit - A building or portion of a building used by one family for cooking, sleeping, and living purposes.

Easement, Private - A strip or parcel of land dedicated for private access to land or structures.

Easement, Public - A strip or parcel of land dedicated for public utilities or other necessary purposes.

Efficiency Dwelling Unit - A dwelling unit containing a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of the unit in excess of two.

Essential Services - The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by the public utilities or municipal departments or commissions or for the public health or safety or general welfare.

Family - One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house.

Farm - A lot utilized for agricultural purposes.

Fence – Any above grade constricton and/or growing vegetation, which constitutes a material barrier to ingress and egress, marks a boundary, or encloses or screens land.

Fence, Decorative - Any fence constructed of boards or similar material no greater than three inches in width, with the spacing between those boards or pieces of material being no less than three inches. This term shall also include wire and chain-link fencing which do not contain privacy slats.

Fence, Privacy - - Any fence constructed of boards or similar material, with the spacing between those boards or pieces of material being less than three inches.

Filling Station - Premises used for the purpose of retailing lubricating oil, greases, gasoline, fuel oil, and the servicing other than repairing, of motor vehicles. This definition does not include the storing of inoperative motor vehicles or their parts.

Floor Area, Gross - The sum of the horizontal areas of the floors of a building measured from the exterior face of exterior walls, but not including any space where the floor-to-ceiling height is less than six (6) feet.

Floor Area, Ground - The sum of the horizontal areas of the ground floor of a building measured from the exterior face of exterior walls, but not including open porches, decks, terraces, garages or exterior stairways.

Foundation - The supporting member of a wall or structure.

Front Yard - A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side of the lot, and measured as the shortest distance from that foundation to the right-of-way line. A lot, which is located on a corner, shall be considered as having two front yards.

Garage - (1) PRIVATE - A private garage is a building or part thereof accessory to a primary structure and providing for the storage of automobiles and which no occupation or business is carried on. (2) PUBLIC OR STORAGE - A building or part thereof other than a private garage for the inside storage of motor vehicles and in which service station activities may be carried on.

Hedge - A solid and unbroken visual screen of self-supporting living plant material.

Home Occupation - An occupation, profession, activity or use carried out by a resident with the intention for economic gain, and which is conducted as an accessory use in the resident's dwelling unit or accessory structure on the premises.

Hotel - A building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

Impervious Surface - A surface that has been compacted or covered with any material that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surface shall include, but is not limited to, buildings, driveways, parking areas, roads, sidewalk, areas of compacted gravel, and any areas of concrete or asphalt.

Improvement Location Permit - A permit issued by the Department stating that the proposed erection, construction, enlargement, moving, or locating of the buildings or structures referred to on the permit application is in compliance with the development and use standards and regulations of the Zoning Code.

Junk - Old, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which is composed of, but not limited to, copper, brass, rags, batteries, paper, trash, rubber, stone, wrecked, or dismantled automobiles or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

Junkyard - An establishment or place of business, which is maintained, operated or used for storing, keeping, buying or selling of junk. Any type of business allowing inoperative vehicles or their parts to collect in an area not properly screened from public view.

Kennel - A place where any combination of three (3) or more domestic animals, as defined in Chapter 91.01 of the Code of Ordinances, are kept. For this purpose, animals shall not be counted until they reach the age of six months. The only exception shall be that which allows for two (2) additional cats (*Felis Catus* or *Felis Domestics*) for a total of five animals in the household, if all of the cats are indoor cats, are spayed or neutered, and are current on all annual shots recommended by the Indiana Veterinary Medical Association. The maximum combinations are 5 cats, or 4 cats and 1 dog, or 3 cats and 2 dogs, 2 cats and 3 dogs. No more than 3 dogs will be allowed.

Lodging House - A building with more than two, but not more than ten quest rooms where lodging with or without meals are provided.

Lot - A parcel, tract, or area of land established by plat, subdivision, or otherwise permitted by law, to be used, developed, or built upon.

Lot, Corner - A lot abutting upon two (2) or more streets, at their intersection; or, upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

Non-Conforming Use - A building, structure, or use of land existing at the time of the enactment of this chapter, and which does not conform to the regulations of the district in which it is located.

Office - A room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government.

Owner - Any person, group of persons, firm, corporation, or any other legal entity having legal title to or sufficient property interest in a parcel of property.

Perimeter Landscape Strip - A continuous strip of land along the perimeter of the site containing trees, living barriers, hedges, ground cover and/or other living plant material.

Person - Any individual, corporation, firm, partnership, association, organization, or group acting as a unit.

Pervious Surface - Any material that permits full or partial absorption of storm water into previously unimproved land.

Plan Commission - The Huntington City Plan Commission.

Planned Development - An area of a minimum contiguous size, as specified by this Chapter, to be planned, developed, operated, and maintained by a single entity, containing one (1) or more building pads with appurtenant common areas.

Planned Unit Development - A means of land regulation which permits large scale, unified land development in a configuration and possibly a mix of uses not otherwise permitted "as of right" under the zone districts, but requiring under this chapter a review by the Board of Zoning Appeals.

Planting Area - An unrestricted area, which provides a pervious surface for plants to grow.

Principal Structure - A building or structure in which the principal use of the lot on which the building or structure is located is conducted.

Principal Use - The primary or predominant use of any lot, building or structure.

Professional Office - The office of a member of a recognized profession maintained for the conduct of business in any of the following related categories; architectural, engineering, planning, law, interior design, accounting, insurance, real estate, medical, dental, optical, or any similar type profession.

Property Owner - An individual, firm association, organization, partnership, trust, company, corporation, or any other legal entity who owns or holds title to real property. For the purposes of this code, an entity which has the power of eminent domain shall be considered a property owner and have the authority to act as a property owner.

Rear Yard - A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building or structure to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line.

Resident - An individual whose principal place of living and sleeping is in a particular location is a resident of that location.

Right-of-Way - A strip of land occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for another special use.

Rooming House - Any dwelling in which more than five persons either individually or as a family are housed or lodged for hire, with or without meals. A boarding house or furnished room house shall be deemed a ROOMING HOUSE.

Screening - Either a strip of at least ten feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least eight feet high at the time of planting, of a type that will form a year-round dense screening; or an opaque wall or barrier or uniformly painted fence at least eight feet in height. Screenings shall

be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except as permitted or required under this chapter. Where required by this chapter a screen shall be installed along or within the lines of a plot as a protection for adjoining or nearby properties.

Setback Line - A line parallel to and equidistant from the relevant lot line (front, back, and side) between which no buildings or structures may be erected as prescribed in these regulations.

Side Lot Lines - Any lines separating two lots other than front or rear lot lines.

Side Yard - A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard.

Street - A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affecting the principal means of access to abutting property. A "street" includes road, thoroughfare, parkway, avenue, boulevard, lane, drive, or other appropriate name.

Structural Alteration - Any change in the supporting members of a building such as bearing walls, beams, columns, posts, or girders.

Structure - Anything constructed or erected, which requires location on the ground or attached to something located on the ground.

Supply Yard - A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed, grain or similar goods. Supply yards do not include the wrecking, salvaging, dismantling, or storage of automobiles and similar vehicles.

Swimming Pool - Any artificial basin constructed, modified or improved for wading, swimming, or diving. The term does not include artificial lakes.

Swimming Pool, In-Ground - Any pool whose sides rest in partial or full contact with the earth.

Swimming Pool, On-Ground - Any pool whose sides rest fully above the surrounding earth.

Swimming Pool, Permanent - Any in-ground pool and any on-ground pool which are capable of a water depth greater than 42 inches or any pool inside a residence, regardless of water depth, whether or not served by an electrical circuit.

Trailer Park - Any tract of ground designed for use or used by one or more trailers of the independent mobile home type defined in this chapter and which is used for dwelling or sleeping purposes regardless of whether a charge is made for the accommodation.

Use - The purpose for which land or a building is arranged, designed, or intended, or from which either land or a building is or may be occupied or maintained.

Yard - An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

## ZONING DISTRICTS

### **SECTION 158.015 DIVISION OF CITY INTO DISTRICTS, ZONING MAP, DISTRICT BOUNDARIES**

A. Zoning Districts. The city is divided into the districts stated in this chapter as shown by the district boundaries on the zone map. The map is on file in the office of the Department, which map, and all explanatory matter thereon, is hereby made part of this chapter. The district boundaries are:

<b><u>DISTRICT DESIGNATION</u></b>	<b><u>PRIMARILY FOR:</u></b>
A	Agricultural
FDP	Flood Damage Prevention
C-1	Conservation
R-1	Residential
R-1A	Residential
R-2	Residential
R-3	Residential
B-1	Business
B-2	Business
I-1	Industrial
I-2	Industrial
I-3	Industrial
I-4	Industrial
AHR	Airport Height Restriction
POD	Professional Offices
MXD	Mixed Use
BP	Business Park
AZ	Airport District
IP	Industrial Park

- B. District Boundaries\_- Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the zoning map, the following rules shall apply:
1. Where boundaries parallel street lines, alley lines, or highway right-of-way lines. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, the center lines or alley lines of alleys, or the center lines or right-of-way lines of highways, the district boundaries shall be construed as being parallel thereto and at a distance there from as indicated on the zone map. If no distance is given, the dimension shall be determined by the use of the scale shown on the zoning map.
  2. Where boundaries approximately follow lot lines. Where district boundaries are indicated as approximately following lot lines, the lot lines shall be construed to be the boundaries.
  3. Where the boundary follows a railroad line. Where the boundary of a district follows a railroad line, the boundary shall be deemed to be located midway between the main tracks of the railroad line, unless otherwise indicated.

4. Where the boundary follows a body of water. Where the boundary of a district follows a stream, lake, or other body of water, the boundary line shall be construed to be the limit of the jurisdiction of the City, unless otherwise indicated.
5. Vacation of public ways. Whenever any street, alley, or other public right-of-way is vacated in the manner authorized by law, the zoning district adjoining each side of the street, alley, or public right-of-way shall be automatically extended to the center of the vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the district.

#### **SECTION 158.016 FLOOD DAMAGE PREVENTION OVERLAY DISTRICT**

- A. The purpose of the Flood Damage Prevention Overlay District (FDP) is to restrict development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief.
- B. The Huntington County, Indiana and Incorporated Areas Flood Insurance Rate Map dated June 2, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be utilized as overlay maps to the official Zoning Map for the purpose of determining compliance with §158.049.

#### **SECTION 158.017 CONSERVATION DISTRICT**

The district designated for Conservation, C-1, is limited to agricultural, recreational, and certain other open land uses. Residential and related uses are permitted if approved by the Board of Zoning Appeals. The purpose of this district is to prevent intensive development of land that is unsuitable for development because of topography, soil conditions, or periodic flooding.

#### **SECTION 158.018 RESIDENTIAL DISTRICTS**

Districts designated for residential use, R-1, R-1A, R-2, and R-3 are limited to dwellings and public or semi-public uses which are normally associated with residential neighborhoods. The only uses permitted in the residential districts are those, which do not detract from the residential character of the neighborhood. The purpose of the four districts is to create an attractive, stable and orderly residential environment. However, the families per dwelling and the lot and yard requirements are different in the four districts to provide for the various housing needs and desires of the citizens.

#### **SECTION 158.019 BUSINESS DISTRICTS**

The districts designated for business, B-1 and B-2, are limited to business, public and certain residential uses. By establishing compact districts for those uses, more efficient traffic movement, parking facilities, fire and police protection may be provided. Industrial uses are excluded in order to reduce the hazards caused by extensive truck and rail movements normally associated with those uses. The purpose of these districts is to provide unified shopping districts conveniently located.

#### **SECTION 158.020 INDUSTRIAL DISTRICTS**



The districts designated for industry, I-1, I-2, I-3, and I-4, provide suitable space for existing industries and their expansion as well as for future industrial development. The districts are established based upon intensity of permitted uses and developmental standards. Each district and the applicable standards are designed to insure safe industrial development that is compatible with surrounding uses.

**SECTION 158.021 MIXED USE DISTRICT**

The district designated for mixed-use development, MXD, is limited to residential, business, and institutional uses. The purpose of the district is to accommodate residential, retail, service specialty shops and institutional uses, which are characteristic along Primary Arterial streets within the City. The district promotes the continued development of residential units while permitting certain commercial and institutional uses to service the needs of the residents of the neighborhood and community. The standards and requirements of this chapter regarding off-street parking, landscaping, and signage shall apply to all development within the district.

**SECTION 158.022 AIRPORT HEIGHT RESTRICTIONS OVERLAY DISTRICT**

The purpose of the AHR district is to regulate the height of a structure erected or constructed, which could create an obstruction and endanger the lives and property of users of the Huntington Municipal Airport. This district would allow the erection or construction of a structure permitted in accordance with the underlying zoning district provided the height of the structure does not exceed the maximum established for the district.

**SECTION 158.023 PROFESSIONAL OFFICE DISTRICT**

The district designated for professional offices, POD, is intended to accommodate low-intensity uses such as professional offices and business offices within a planned environment. This district is not commercial in character; however, certain limited commercial uses are permissible by special exception in demonstrated support of permitted uses in the specific POD. As the POD is designed to be compatible with residential uses, it is partially intended as a buffer or transitional area between residential and more intense business developments.

**SECTION 158.024 AGRICULTURAL DISTRICTS**

The district designated for agricultural use, "A" is intended to protect and maintain the agricultural lands utilized for farming and livestock purposes. It is the intent of this section to preserve agricultural lands and to discourage reclassification of zoning to non-agricultural use without a clear showing of proven need in the public interest and a clear showing of conformity with the Comprehensive Plan. IC 32-30-6 (State Right to Farm Law) and IC 15-11-2-6 are hereby incorporated by reference.

**SECTION 158.025 BUSINESS PARK DISTRICT**

The district designated for the development of business parks, BP, is intended to accommodate a mixture of offices, business, and industries in a planned environment. This district is intended for a large parcel of land that is easily accessible, and in an area conducive to both commercial and industrial development.

**SECTION 158.026 INDUSTRIAL PARK DISTRICT**

The district designated for the development of industrial parks, IP, is intended to accommodate a mixture of industrial uses in a planned development. This district is not commercial in nature. However, certain

commercial uses are permissible by special exception in demonstrated support of permitted uses in the industrial park.

**SECTION 158.027      AIRPORT DISTRICT**

This district is designated for development of Airports, AZ and is intended for airport facilities and compatible land uses. It is the intention of this section to allow for the continued use and expansion of airport facilities.

## USEAGE REGULATIONS

### SECTION 158.030      SIGNS

#### SECTION 158.030.01    GENERAL PROVISIONS

##### A. General Information

1. The following subchapter outlines the signage regulations for the City of Huntington. Should you wish to erect signage that is in conflict with the provisions outlined, you may apply for a Variance from Development Standards in accordance with Section 158.076.
2. For the purpose of this chapter, one (1) sign, as defined elsewhere, shall constitute single or double sided facing provided the angle of separation between the two sign faces is no more than sixty (60) degrees unless otherwise noted. When sign area and proximity allows, a permitted single sign may be comprised of several small signs, provided the total area of the signs do not exceed the provided size limitations.
3. When measuring the distance between signs, unless otherwise noted, linear dimensions shall be made between the nearest sign base or mounting location of the signs.
4. Sign setbacks shall apply to the entire sign or sign structure, not from the mounting or support structure location.

##### B. Purpose and Intent

1. The purpose of this section is to create a comprehensive and balanced framework to regulate signs, which can be viewed from the exterior of structures to protect the health, safety and visual aesthetics, and to promote the overall public welfare. Including, but not limited to encouraging the effective usage of signs as a means of communication within the community, in a manner that is fitting.
2. The intent of this section is to acknowledge the need for adequate business identification and advertisement to conduct business, while promoting an attractive appearance throughout the community, through the use of permitting, reasonable standards, and regulations formulated to ensure compliance by all existing and future signs regulated within this Ordinance. This Ordinance is designed to authorize signs, which are:
  3. Compatible to their surrounding land uses while meeting the objectives of proper zoning amenities;
  4. Located, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety;
  5. Established in such a way as to allow and promote the optimum conditions for meeting the sign user's needs for identification while at the same time promoting the amenable environment required to serve the public welfare;
  6. Respectful of the reasonable rights of advertisers whose messages are displayed.

##### C. First Amendment Protection

1. No section of this ordinance shall be interpreted to hinder or prohibit freedom of speech as provided for under the First Amendment. No regulations within are placed on personal opinion messages, political speech, political election or political issue signs. All provisions outlined in this Ordinance are content neutral and only seek to regulate the quantity, size, height, location, spacing and other quantifiable elements of commercial signage and advertisement in order to protect the public interest through traffic safety, aesthetics and other similar interests.

#### D. Multiple Tenants

1. On parcels where more than one tenants occupy a single parcel, the provisions contained within this subsection shall apply to each tenant individually, except where noted.

#### E. Definitions

1. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. In any situation where a given definition presents some level of ambiguity, the interpretation by the Director shall prevail, subject to any challenge to be decided by the Board of Zoning Appeals as provided.

Area (of a Sign) - The area in square feet of a sign, when a complex sign shape exists, the director may determine the area of a sign by calculating the smallest, simplest, single geometric figure, which encloses the outside shape of the entire sign face.

Bottom Roofline - The principle bottom edge of the roof of a structure, which may be the lowest point of shingles or other roofing material where fascia is located and rain gutters are typically attached.

Changeable Copy - A part of a sign, which, through design may feature removable or changeable faces, plates or lettering.

Copy: The wording and advertising area on a sign surface in either permanent or changeable copy form.

Corner Vision Clearance - The triangular area formed by the intersection of any road right of way lines by a straight line drawn between the rights-of-way lines at a distance along each line of 25 feet from their point of intersection. Consideration should also be given to private drive entrances, if the Director determines this constitutes a traffic safety concern, limitations may be placed upon the sign.

Director - The Director of the Community Development and Redevelopment Department.

Electronic Messaging - See Dynamic Sign.

Façade - Any face of a building, that's nearest property line directly abuts a street, private roadway, or other improved right-of-way.

Foot-Candle - A standard unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.

Height (of a Sign) - The distance between the lowest grade level within two feet of either side of a sign and the highest part of the sign or its supporting structure.

Minimum Clearance (of a Sign) - The smallest vertical distance between the grade of the adjacent street, curb, or sidewalk and the lowest point of any sign, including framework and embellishments, extending over that grade.

Nameplate - A non-electric, on-premise identification sign giving only the name, address and/or occupant or a group of occupants.

Road Frontage - The individual number of improved streets, roads or vehicular rights-of-way that directly abut a property. For the purpose of this chapter, roads shall be limited to public roadways intended for motor vehicle travel. When determining Road Frontage, private drives, private roads, and public alleyways shall not constitute as a road frontage.

Roofline - The top or bottom most, as specified, part of a roof of a structure for which a sign is affixed to.

Service Stations - A retail establishment such as a gas station, convenience store or motor vehicle garage that holds a valid Indiana Registered Retail Merchants certificate.

Sign - Any identification, description, symbol, illustration or device, which is in view of the general public or intended to be viewed from public rights-of-way, that are affixed to, painted or represented directly or indirectly and which identifies or directs attention to a person, place, product, service, activity, institution or business. Signs also include "lighter than air" advertising devices when they contain sign elements.

Sign, Auction - A temporary sign, which announces the date, time and other information relative to the auction of real estate or personal property at that premise.

Sign, Awning - A sign that is painted, stamped, perforated, stitched or otherwise applied on the surface of an awning. For regulation purposes, an Awning Sign shall be considered a Projecting Sign.

Sign, Banner - Any hanging sign possessing characters, letters, illustrations or ornamentations applied to paper, plastic, fabric, or any kind of material. This classification shall not include plastic or fabric signs, which are permanently attached within or over a rigid frame, which are intended to be used as a semi-permanent sign. National flags, flags of political subdivisions and symbolic flags of any institution or business shall not be considered banners for the purpose of this chapter.

Sign, Billboard - Any structure affixed to the surface of land or to any building, tower, pole(s), or other structures designed, arranged, used or intended to be used for outdoor advertising or where display space is purchased or rented for general advertising purposes.

Sign, Community Service - A sign, which promotes, declares or identifies a community service organization. Such organizations are typically not for profit and their signs are temporary. The placement, duration and quantity of these signs are determined by the Director.

Sign, Construction - Any sign announcing the names of architects, engineers, contractors or other individuals or firms involved with the construction, alteration or repair of a building project or announcing the character of the building enterprise or the purpose for which the project is intended.

Sign, Directional - Any sign, which serves solely to designate the location or direction of an area or place, which may include terms such as "enter", "exit", distance to and the name of the location or area in a legible font.

Sign, Directory - A sign, which provides a listing of uses or tenants within a particular building or complex of buildings, which are located on the same parcel. Depending on the characteristics, these signs can be wall or ground signs.

Sign, Dynamic - A sign, which features animation through programmable ink, intermittent or non-intermittent electronic messaging, LED video or any other method, which is designed to change the display message, image or other digital copy in an electronic format. This does not include electronic pricing signs, tri-vision signs, electronic time & temperature signs, neon signs, signs that are accentuated by light bulbs or signs which are backlit by a light source.

Sign, Flashing - See Dynamic Sign.

Sign, Freestanding - See Pole Sign or Ground Sign depending on characteristics.

Sign, Ground - A low profile sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure.

Sign, Incidental - A sign which is not explicitly defined by the provisions set forth in this ordinance; or a sign, which due to its size, location or other characteristics is an anomaly or unique in its nature or intention.

Sign, Marquee - See Projecting Sign.

Sign, Mobile - A sign, which is designed to be moved from one location to another, and is not permanently affixed to the ground or to a structure that is permanently affixed to the ground. Signs such as flashing arrow signs and portable reader board signs are classified as mobile signs. For regulation purposes, a Mobile Sign shall be considered a Ground Sign and temporary in its permitting.

Sign, Mobile Billboard - A sign affixed to a motor vehicle, an object that is towed by a motor vehicle or an object that has wheels and is designed to be moved from one location to another or to remain in constant travel. It is designed, arranged, used or intended to be used for outdoor advertising or where display space is purchased or rented for general advertising purposes.

Sign, Monument - See Ground Sign.

Sign, Off-premise - Any sign, which identifies or directs attention to a commercial product, service, activity or business not conducted on the parcel on which the sign is located.

Sign, On-premise - Any sign, which identifies or directs attention to a commercial product, service, activity or business conducted on the parcel on which the sign is located.

Sign, Open House - A sign, which announces an active open house or date and time of a future open house on the premise, which it is located.

Sign, Pedestal - See Ground Sign.

Sign, Pole - A medium-high profile sign, which is supported by one or more uprights or braces in the ground.

Sign, Political Campaign - A temporary sign on behalf of candidates for public office or measures on election ballots or of public concern.

Sign, Projecting - A sign other than a wall sign, which is attached to or projects from a structure or building face and does not project above the top roofline or the cornice wall. This sign includes those designed and/or constructed as an integral part of a marquee or giving the appearance of being an integral part of a marquee. Awning Signs shall constitute as a Projecting Sign. Signs may project from a building a maximum of six (6) feet and may project into any required building setbacks. Signs may project over a sidewalk, but may not extend into any public or private roadway.

Sign, Pylon - See Pole Sign.

Sign, Real Estate - A temporary sign which advertises the sale, lease or rental of the property of which it is on.

Sign, Roof - a sign affixed directly to the roof a structure or a sign which extends above the top roofline of said structure.

Sign, Sandwich Board - A sign, typically of an A-frame design, located directly in front of the commercial establishment for which it advertises. These signs may be placed on a sidewalk, provided they do not impede the flow of pedestrian travel, handicap ramps or similar elements and are only on display during the normal operating hours of the business. These signs may not be placed in roadways or parking spaces. These signs are exempt from permit requirements. The Director shall determine if a sign shall be appropriate to substitute in place of a typical "Sandwich Board" type sign.

Sign, Static - A permanent or changeable copy sign, which does not feature characteristics of a dynamic sign.

Sign, Subdivision - A sign, which identifies a platted subdivision or other group of residential structures.

Sign, Temporary - A sign intended to be displayed for a designated amount of time. Included in this category are banner signs, construction signs, auction signs, real estate signs, political campaign signs and other signs as determined by the Director.

Sign, Walking - A sign attached to, held by or otherwise attended by a human being for the purpose of advertising or solicitation of commercial nature.

Sign, Wall - A sign affixed directly to, painted on or otherwise inscribed on an exterior wall, facade or other integral structural member and confined within the lot lines of any parcel and which projects from the surface less than 12 inches at all points. Wall Signs are not permitted to extend above any top roofline.

Sign, Window - A sign that is applied or attached to the exterior or interior of a window or located in such a manner within a building that it can be seen from the exterior of the structure through a window. One window shall constitute a single pane of glass.

Sign, Vehicle - A sign affixed to a motor vehicle.

Tenant - An owner, leaseholder, renter or other occupant of a property or structure who is independent from any other tenant at the same premises.

Tenant Structure - A single structure, which may be independent or part of a set of a group of structures that houses one or more individual tenants.

Top Roofline - The principle top edge of the roof of a structure, also known as the peak.

#### F. Exemptions

1. The following types of signs are exempt from all requirements of this section unless otherwise noted, but shall be established and maintained in a manner that does not cause safety hazards. No permits are required for the following signs:
  - a. Public traffic control signs
  - b. Private traffic control and warning signs
  - c. Government informational signs and legal notifications
  - d. Public directional or public or private warning signs
  - e. Memorial plaques, cornerstones and historical markers
  - f. Flags of any country, state, unit of government or non-profit organization
  - g. Residential nameplates and address numbers
  - h. Public information signs identifying telephones, restrooms, and similar facilities
  - i. Holiday decorations and special event signs which are directly related to an individual achievement, specifically noncommercial in nature, such as birthday, anniversary, birth announcement, holidays or sporting teams and events
  - j. Electronic time and temperature signs provided they are not more than 25% of a larger permitted sign and only display the current time and temperature as experienced on premise
  - k. Window signs
  - l. Any sign specifically authorized by a legislative body for a public purpose
  - m. Signs on display for the purposes of a public parade event. Such parades shall have permission to close streets and police escorts if required and authorized by the City
  - n. Signs on display for the purpose of public events, festivals and celebrations recognized by the City of Huntington and authorized by the Board of Public Works and Safety
  - o. Vending machines and similar self service machines provided they advertise the products contained within them or premise upon the which they are located
  - p. Drive thru order menus, "open", "closed", and hours of operation signs



## G. Directional Signs

1. Private directional signs are permitted to aid in the safe movement of vehicular traffic. A valid sign permit is required prior to erecting a directional sign.
2. Typical wording includes the name of the establishment and “enter”, “exit”, distance to and other similar wording.
3. The Director may limit the location of such signs should a traffic safety concern arise from their placement near public rights-of-way and private drives.
4. For new construction or uses, the lighting, size and quantity of these signs shall be determined through the Development Plan Review process when required.
5. For new directional signs at existing locations, the lighting, size and quantity of these signs shall be determined by the Director on a case-by-case basis.

## **SECTION 158.030.02 GENERAL REQUIREMENTS AND RESTRICTIONS**

### A. Compliance with Regulations

1. All signs shall comply with the general rules, regulations and requirements governing their placement, location, type, number and size as outlined and contained within the provisions of this Ordinance.

### B. Obstruction of Traffic Signs, Misleading or Confusing Signs

1. No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device. No rotating beam, beacon or flashing illumination resembling any emergency lights shall be used in conjunction with any sign display, nor shall any sign make use of the words “stop”, “look”, “danger”, “caution” or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic. No sign shall emit any form of sound or sounds.

### C. Obstruction of Visibility

1. No sign or sign structure shall be located or constructed in such a manner as to materially impede the view of any street or highway intersection, or in such a manner as to materially impede the view of the intersection of a street or highway that contains a railroad crossing. No sign shall be designed or placed as to confuse traffic information for pedestrians or drivers of motor vehicles. The determination of the reasonableness of the location of a sign or sign structure, with respect to that above, shall be made by the Director, whose decision shall be subject to appeal.

### D. Illumination

1. The light from an illuminated sign, whether an electronic sign, a sign illuminated from within the sign structure or through the use of directional or spot lighting, shall be so shaded, shielded or directed that the light intensity or brightness will not be reasonably objectionable as determined by the Director considering those affected thereby.

2. The light from an illuminated sign, whether an electronic sign, a sign illuminated from within the sign structure or through the use of directional or spot lighting shall not exceed seventy five (75) foot-candles on the sign surface. Illumination shall not be more than one foot-candle in intensity when measured from lot lines.

#### E. Maintenance and Removal

1. All signs and sign structures, including but not limited to those signs for which permits are required, shall be kept and maintained in a good state of repair and safe condition. Including the replacement of defective parts, painting, cleaning and other acts required for maintenance.
2. When any sign fails to comply with division 1 above, the owner of the sign or owner of the property upon which said sign is located shall remove or repair said sign.
3. After giving the sign or property owner any required written notice that said sign is in disrepair, the Department or its authorized representative can cause the sign to be removed, repaired, or altered at the expense of the property owner in accordance with the provisions of the Huntington City Zoning Ordinance.

#### F. Prohibited Signs

1. The following types of signs are not permitted in any location under any circumstances unless otherwise specified in this Ordinance. These signs may be subject to fines and penalties as provided for in this Ordinance.
  - a. Dynamic Signs, including those of any size located in a window or intended to be viewed from the outside of a structure, as defined in this Ordinance unless explicitly permitted
  - b. Any sign which swings or otherwise noticeably moves as a result of wind pressure because of the manner in which they are suspended or attached and whose movement can be construed as dangerous by the Director
2. The following types of signs are not permitted in any location under any circumstances unless otherwise specified in this Ordinance. These signs may be removed and or destroyed by the Director without any notification and as a result be subject to fines and penalties as provided for in this Ordinance once photographic documentation is taken for violation record purposes once they are found to be in violation.
  - a. Any deteriorated, leaning, derelict or structurally unsafe signs, which constitute a public safety hazard as determined by the Director
  - b. Any signs placed on trees, public/municipal utility telephone or light poles, fences, on the surface of city streets or rights-of-way, railroad rights-of-way, alleys, sidewalks or projected electronically there on. Rights-of-way shall mean any local, state, federal, public, or private rights-of-way, platted as such and intended for the purpose of the construction, reservation, maintenance, or expansion of services or infrastructure intended to benefit the public
  - c. Any sign obstructing ingress or egress points of access from a building door, window, fire escape or exit

- d. Any sign which is located upon, over or in any street or highway rights-of-way, except for official traffic signs and signals unless otherwise specified
- e. Any sign that is unlawful

### **SECTION 158.030.03 PERMITS, APPLICATION AND FEES**

#### **A. Sign Permit**

1. Except as otherwise provided in this Ordinance, it shall be unlawful for any person to establish or cause any sign to be erected, structurally altered or relocated except as otherwise exempted in this Ordinance without first obtaining a sign permit for each sign from the Department as required by this Ordinance. This requirement shall not be construed to require any permit for a change of copy or displayed message, repainting, cleaning or other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way which violates the standards or provisions of this Ordinance. No permit shall be required for signs, which are exempt from permits elsewhere in this Ordinance. No new permit shall be required for signs which have been lawfully permitted and that conform with the requirements set forth in this Ordinance unless the sign is altered or relocated in a manner, which violates this Ordinance.
2. Sign permits issued by the department shall be deemed null and void if the sign is not established within one (1) year after the issuance of said permit. Permits for signs, which have been granted a variance, shall be deemed null and void after one (1) year from the date such approval for variance is granted from the Board of Zoning Appeals.
3. No person shall establish any sign upon any property or structure without the consent of the owner or person entitled to possession of said property or building, if any, or their authorized representative.

#### **B. Sign Permit Application**

1. To obtain a permit for the purpose of erecting, constructing, altering or relocating a sign, a permit application on file with the Department must be filled out by the applicant. Such application shall be accompanied by any information deemed necessary by the Department to assure compliance with appropriate regulations of this Ordinance including, but not limited to:
  - a. Clear and legible drawings of the sign, sign structure and site that illustrates the location of the sign which is subject to the permit and all other existing signs on the same premises or on other premises which may be relative to the regulations for said sign
  - b. All property lines, easements, Rights-of-way, adjacent roads, structures and other improvements
  - c. Drawings should show the dimensions, construction supports, sizes, and method of attachment of the sign
  - d. Supplemental information should also be submitted for any lighting or illumination of a sign or sign structure
  - e. Any applicable electrical permits shall be obtained in conjunction with a sign permit
2. The Director shall issue a permit for the sign if:

- a. It complies with all applicable regulations and restrictions contained in this Ordinance
  - b. It has been authorized as a variance by the Board of Zoning Appeals
  - c. The premises on which the sign will be located, is in good standing and not deemed to be in violation of any ordinances by the Department
3. The following signs are exempt from the permit requirements contained herein:
- a. A sign specifically exempt from the provisions of this Ordinance as specifically stated in this Ordinance
  - b. A sign that is deemed by the Director to be a permanent or integral architectural feature of the structure that contains it
4. The Director may, in writing, suspend or revoke a permit issued under provisions of this Ordinance whenever a permit is issued on the basis of a misstatement of fact or fraud after due notice by the Director. When a sign permit is denied or revoked by the Director, notice of the denial of the application together with a brief statement of the reason for the denial shall be given when requested.
5. No sign permit issued hereunder shall be deemed to constitute permission or authorization to establish, erect or maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.
6. An appeal may be presented to the Board of Zoning Appeals from either the Directors denial or the revocation of a permit or from the failure of the Director to formally grant or deny a permit within thirty (30) days from the date of application for a sign permit or the denial thereof.

C. Sign Permit Fees

- 1. Fees for sign permits shall be fixed by Ordinance and contained on the Fee Schedule maintained by the Department, approved by the Plan Commission and adopted by the Common Council. Fees can be amended from time to time as deemed necessary and adopted by the Council.

**SECTION 158.030.04 RESIDENTIAL DISTRICTS**

A. A, R-1A, R-1, R-2, R-3 AND C-1 Districts

- 1. One (1) on-premise sign per parcel for an approved home occupation from the following list.
  - a. Sign Classification: Wall Sign
    - i. Animation: Static
    - ii. Maximum Sign Area: Four (4) square feet
    - iii. Maximum Sign Height: Eight (8) feet
    - iv. Illumination: None
    - v. Other Restrictions: See Wall Sign definition

**SECTION 158.030.05 PROFESSIONAL OFFICE DISTRICT (POD)**

A. POD – Professional Office District

1. Two (2) on-premise signs per road frontage from the following list are permitted. Where multiple tenants occupy a structure, the provisions shall apply to each tenant individually.
  - a. Sign Classification: Wall Sign
    - i. Animation: Static
    - ii. Maximum Sign Area: Twenty-five (25) square feet
    - iii. Maximum Sign Height: Twenty-five (25) feet
    - iv. Illumination: Yes
    - v. Other Restrictions: See Wall Sign definition
  - b. Sign Classification: Projecting Sign
    - i. Animation: Static
    - ii. Maximum Sign Area: Twenty-five (25) square feet
    - iii. Maximum Sign Height: Twelve (12) feet
    - iv. Minimum Sign Clearance: Eight (8) feet
    - v. Illumination: Yes
    - vi. Other Restrictions: See Projecting Sign definition
2. One (1) on-premise sign per parcel from the following list are permitted. Where multiple tenant structures occupy a parcel, the provisions shall apply to each tenant structure individually. Such sign may identify the name of the office park or structure and those tenants who occupy them.
  - a. Sign Classification: Ground Sign
    - i. Animation: Static.
    - ii. Maximum Sign Area: Twenty-five (25) square feet
    - iii. Maximum Sign Height: Six (6) feet
    - iv. Location: Prohibited from Corner Vision Clearance area and being located within thirty (30) feet from any residential district and must be set back five (5) feet from any property line
    - v. Illumination: Yes
    - vi. Other Restrictions: See Ground Sign and Tenant Structures definitions

**SECTION 158.030.06 BUSINESS DISTRICTS**

A. MXD – Mixed Use District

1. Two (2) on-premise signs per road frontage from the following list are permitted. Where multiple tenants occupy a structure, the provisions shall apply to each tenant individually.
  - a. Sign Classification: Wall Sign
    - i. Animation: Static
    - ii. Maximum Sign Area: Twenty-five (25) square feet
    - iii. Maximum Sign Height: Ten (10) feet
    - iv. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall.
    - v. Illumination: Yes provided the sign is not located within thirty (30) feet from any residential district
    - vi. Other Restrictions: See Wall Sign definition

- b. Sign Classification: Projecting Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Twenty-five (25) square feet
  - iii. Maximum Sign Height: Twelve (12) feet
  - iv. Minimum Sign Clearance: Eight (8) feet
  - v. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
  - vi. Illumination: Yes provided the sign is not located within thirty (30) feet from any residential district
  - vii. Other Restrictions: See Projecting Sign definition

2. One (1) on-premise sign per parcel from the following list is permitted, in lieu of a sign below; one additional sign from the above list may be substituted.

- a. Sign Classification: Ground Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Twenty-five (25) square feet
  - iii. Maximum Sign Height: Six (6) feet
  - iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line
  - v. Illumination: Yes provided the sign is not located within thirty (30) feet from any residential district
  - vi. Other Restrictions: See Ground Sign definition
- b. Sign Classification: Pole Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Thirty-six (36) square feet
  - iii. Maximum Sign Height: Thirty (30) feet
  - iv. Location: Must be set back five (5) feet from any property line
  - v. Illumination: Yes provided the sign is not located within thirty (30) feet from any residential district
  - vi. Other Restrictions: See Pole Sign definition

## B. B-1 District

1. Two (2) on-premise signs per road frontage from the following list are permitted. Where multiple tenants occupy a structure, the provisions shall apply to each tenant individually.

- a. Sign Classification: Wall Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Thirty-six (36) square feet
  - iii. Maximum Sign Height: Twenty (20) feet
  - iv. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
  - v. Illumination: Yes
  - vi. Other Restrictions: See Wall Sign definition
- b. Sign Classification: Projecting Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Thirty-six (36) square feet

- iii. Maximum Sign Height: Twenty (20) feet
- iv. Minimum Sign Clearance: Eight (8) feet
- v. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
- vi. Illumination: Yes
- vii. Other Restrictions: See Projecting Sign definition

2. One (1) on-premise sign per parcel from the following list are permitted.

- a. Sign Classification: Sandwich Board Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Nine (9) square feet
  - iii. Maximum Sign Height: Six (6) feet
  - iv. Location: Directly in front of the business it advertises, prohibited from corners.
  - v. Illumination: None
  - vi. Other Restrictions: See Sandwich Board Sign definition

### C. B-2 District

1. Two (2) on-premise signs per road frontage from the following list are permitted. Where multiple tenants occupy a structure, the provisions shall apply to each tenant individually.

- a. Sign Classification: Wall Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Forty-nine (49) square feet
  - iii. Maximum Sign Height: Thirty (30) feet
  - iv. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
  - v. Illumination: Yes
  - vi. Other Restrictions: See Wall Sign definition
- b. Sign Classification: Projecting Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Forty-nine (49) square feet
  - iii. Maximum Sign Height: Thirty (30) feet
  - iv. Minimum Sign Clearance: Eight (8) feet
  - v. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
  - vi. Illumination: Yes
  - vii. Other Restrictions: See Projecting Sign definition

2. One (1) on-premise sign per parcel from the following list is permitted, in lieu of a sign below; one additional sign from the above list may be substituted.

- a. Sign Classification: Ground Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: Twenty-five (25) square feet
  - iii. Maximum Sign Height: Six (6) feet
  - iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line

- v. Illumination: Yes
- vi. Other Restrictions: See Ground Sign definition

b. Sign Classification: Pole Sign

- i. Animation: Static
- ii. Maximum Sign Area: Eighty-one (81) square feet
- iii. Maximum Sign Height: Forty (40) feet
- iv. Minimum Sign Clearance: Eight (8) feet
- v. Location: Must be set back five (5) feet from any property line
- vi. Illumination: Yes
- vii. Other Restrictions: See Pole Sign definition

D. BP - Business Park District

1. Two (2) on-premise signs per road frontage from the following list is permitted. Where multiple tenants occupy a structure, the provisions shall apply to each tenant individually.

a. Sign Classification: Wall Sign

- i. Animation: Static
- ii. Maximum Sign Area: Thirty-six (36) square feet
- iii. Maximum Sign Height: Twenty (20) feet
- iv. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
- v. Illumination: Yes
- vi. Other Restrictions: See Wall Sign definition

b. Sign Classification: Projecting Sign

- i. Animation: Static
- ii. Maximum Sign Area: Thirty-six (36) square feet
- iii. Maximum Sign Height: Twenty (20) feet
- iv. Minimum Sign Clearance: Eight (8) feet
- v. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
- vi. Illumination: Yes
- vii. Other Restrictions: See Projecting Sign definition

2. One (1) on-premise sign per parcel from the following list is permitted, in lieu of a sign below; one additional sign from the above list may be substituted.

a. Sign Classification: Ground Sign

- i. Animation: Static
- ii. Maximum Sign Area: Twenty-five (25) square feet
- iii. Maximum Sign Height: Six (6) feet
- iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line
- v. Illumination: Yes
- vi. Other Restrictions: See Ground Sign definition

b. Sign Classification: Pole Sign

- i. Animation: Static



- ii. Maximum Sign Area: Forty-nine (49) square feet
- iii. Maximum Sign Height: thirty (30) feet
- iv. Minimum Sign Clearance: Eight (8) feet
- v. Location: Must be set back five (5) feet from any property line
- vi. Illumination: Yes
- vii. Other Restrictions: See Pole Sign definition

**SECTION 158.030.07 INDUSTRIAL DISTRICTS**

A. I-1, I-2, I-3, I-4 and IP (Industrial Park) Districts

1. Two (2) on-premise signs per road frontage from the following list are permitted. Where multiple tenants occupy a structure, the provisions shall apply to each tenant individually.

a. Sign Classification: Wall Sign

- i. Animation: Static
- ii. Maximum Sign Area: Two-hundred (200) square feet
- iii. Maximum Sign Height: Thirty-five (35) feet
- iv. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
- v. Illumination: Yes
- vi. Other Restrictions: See Wall Sign definition

b. Sign Classification: Projecting Sign

- i. Animation: Static
- ii. Maximum Sign Area: Sixty-four (64) square feet
- iii. Maximum Sign Height: Thirty-five (35) feet
- iv. Minimum Sign Clearance: Eight (8) feet
- v. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
- vi. Illumination: Yes
- vii. Other Restrictions: See Projecting Sign definition

c. Sign Classification: Roof Sign

- i. Animation: Static
- ii. Maximum Sign Area: Sixty-four (64) square feet
- iii. Maximum Sign Height: Forty-five (45) feet
- iv. Illumination: Yes
- v. Other Restrictions: See Roof Sign definition

2. One (1) on-premise sign per parcel from the following list is permitted, in lieu of a sign below; one additional sign from the above list may be substituted.

a. Sign Classification: Ground Sign

- i. Animation: Static
- ii. Maximum Sign Area: Thirty-two (32) square feet
- iii. Maximum Sign Height: Six (6) feet
- iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line
- v. Illumination: Yes

- vi. Other Restrictions: See Ground Sign definition
- b. Sign Classification: Pole Sign
  - i. Animation: Static
  - ii. Maximum Sign Area: One hundred (100) square feet
  - iii. Maximum Sign Height: Forty (40) feet
  - iv. Minimum Sign Clearance: Eight (8) feet
  - v. Location: Must be set back five (5) feet from any property line
  - vi. Illumination: Yes
  - vii. Other Restrictions: See Pole Sign definition

**SECTION 158.030.08 OFF-PREMISE & BILLBOARD SIGNS IN BUSINESS & INDUSTRIAL DISTRICTS.**

**A. Off-Premise & Billboard Signs 100 Square Feet or Less**

1. Static off-premise signs not exceeding 100 square feet are permitted only in B-2, I-1, I-2, I-3, I-4 and IP zoning districts. The signs shall be no closer than fifteen (15) feet to any lot line and shall not exceed forty (40) feet in height. Such signs shall be placed 1,000 lineal feet from any other off-premise sign in any direction (measured base to base) on both sides of a road and cross roads.
2. Off-premise signs are not permitted:
  - a. within 250 lineal feet from any city or county residential or conservation district, any church, school, health care facility, or designated historic district or site in any direction (measured from sign base to lot line) on both sides of a road and cross roads.
  - b. Within 250 lineal feet from any city of county office district in any direction (measured from sign base to lot line) on both sides of a road and cross roads.
  - c. On a parcel abutting the Wabash River Heritage Corridor.

**B. Off-Premise & Billboard Signs 101-300 Square Feet**

1. Static off-premise signs between 101 and 300 square feet are permitted only in B-2, I-1, I-2, I-3, I-4 and IP zoning districts. The signs shall be no closer than fifteen (15) feet to any lot line and shall not exceed forty (40) feet in height. Such signs shall be placed 1,500 lineal feet from any other off-premise sign in any direction (measured base to base) on both sides of a road and cross roads.
2. Off-premise signs are not permitted:
  - a. within 300 lineal feet from any city or county residential or conservation district, any church, school, health care facility, or designated historic district or site in any direction (measured from sign base to lot line) on both sides of a road and cross roads.
  - b. Within 300 lineal feet from any city of county office district in any direction (measured from sign base to lot line) on both sides of a road and cross roads.
  - c. On a parcel abutting the Wabash River Heritage Corridor.

**C. Off-Premise & Billboard Signs 301-672 Square Feet**

1. Static off-premise signs between 301 and 675 square feet are permitted only in I-1, I-2, I-3, I-4 and IP zoning districts. The signs shall be no closer than twenty (20) feet to any lot line and shall not exceed forty (40) feet in height. Such signs shall be placed 2,000 lineal feet from any other off-premise sign in any direction (measured base to base) on both sides of a road and cross roads.
2. Off-premise signs are not permitted:
  - a. within 400 lineal feet from any city or county residential or conservation district, any church, school, health care facility, or designated historic district or site in any direction (measured from sign base to lot line) on both sides of a road and cross roads.
  - b. Within 400 lineal feet from any city or county office district in any direction (measured from sign base to lot line) on both sides of a road and cross roads.
  - c. On a parcel abutting the Wabash River Heritage Corridor.

#### D. Mobile Off-Premise & Billboard Signs

1. Signs such as these are deemed Mobile Billboards by definition and shall conform to the regulations set forth in the provisions above depending on their size. The use of these signs in a temporary manner shall conform to Temporary Sign regulations.

#### E. Travelling Billboard Signs

1. Signs such as this are leasable advertising space that is intended to travel on public roadways for the explicit purpose of advertising. These types of signs are restricted to being static signs only and may not be illuminated. These signs are permitted between the hours of 9:00 am and 5:00 pm Monday-Friday. Permits must be obtained for these types of signs per the Department Fee Schedule and the following information must be provided at the time of application.
  - a. Vehicle make and model
  - b. Photocopy of Drivers License
  - c. License Plate number

### **SECTION 158.030.09 INCIDENTAL SIGNS**

#### A. Incidental Signs in All Districts

1. In the event any sign desired to be erected does not explicitly fit the qualifications of signs provided for within this ordinance, it shall be up to the Director to determine its closest classification and thereby regulation. The Director may place restrictions on the sign size, quantity and duration of its placement based upon similar signs permitted within the district.
2. In the event any sign desired to be erected is determined to be an anomaly or unique in its nature, it shall be up to the Director to determine if a sign permit is required for such signage.

**SECTION 158.030.10 TEMPORARY SIGNS**

**A. Sign Permit Required**

1. The following signs (B through K) shall be permitted in all applicable districts within the city limits and shall not be required to have a permit for a temporary sign unless otherwise specified in this chapter.
2. Where a permit is required for a temporary sign, the temporary permit shall be issued for no more than thirty (30) days in duration. Upon conclusion of the permitted thirty (30) days, a new temporary sign permit may be issued by the Director for an additional thirty (30) days; any requested time period beyond this must be approved by the Board of Zoning Appeals.

**B. Development & Construction Signs in All Districts**

1. One (1) on-premise sign per parcel from the following list is permitted. Signs may be posted thirty (30) days prior to the start of any construction and must be removed within thirty (30) days of when construction work is complete or when the certificate of occupancy has been issued, whichever occurs first.
  - a. Sign Classification: Ground Sign
    - i. Animation: Static
    - ii. Maximum Sign Area: Thirty-two (32) square feet
    - iii. Maximum Sign Height: Ten (10) feet
    - iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line
    - v. Illumination: No
    - vi. Other Restrictions: See Ground Sign definition

**C. Real Estate & Auction Districts in All Districts**

1. An unlimited number of real estate, auction, open house, and related directional signs from the following list may be placed on private property. Signs must be removed promptly after the closing, lease or rental of the property. In instances where the property for sale is a zero-lot line property, signs are permitted to be placed in the right-of-way so long as they do not create a traffic or safety hazard (this does not include directional signage).
  - a. Sign Classification: Ground Sign
    - i. Animation: Static
    - ii. Maximum Sign Area: Thirty-two (32) square feet
    - iii. Maximum Sign Height: Ten (10) feet
    - iv. Location: Must be located within the lot lines of the property and outside of the Rights-of-way
    - v. Illumination: No
    - vi. Other Restrictions: See Ground Sign definition
  - b. Sign Classification: Wall Sign.
    - i. Animation: Static
    - ii. Maximum Sign Area: Thirty-two (32) square feet

- iii. Maximum Sign Height: No taller than the lowest roof line
- iv. Illumination: No
- v. Other Restrictions: See Wall Sign definition

#### D. Garage Sale Signs in All Districts

1. Signs informing the public of private garage, yard or rummage sales are allowed for a maximum period of time and number of times per year at any one residence as regulated by the City of Huntington. Signs are permitted only to be placed upon private property. Signs must be removed immediately at the conclusion of such sale.

- a. Sign Classification: Ground Sign

- i. Animation: Static
- ii. Maximum Sign Area: Four (4) square feet
- iii. Maximum Sign Height: Six (6) feet
- iv. Location: Must be located within the lot lines of the property and outside of the Rights-of-way
- v. Illumination: No
- vi. Other Restrictions: See Ground Sign definition

- b. Sign Classification: Wall Sign

- i. Animation: Static
- ii. Maximum Sign Area: Four (4) square feet
- iii. Maximum Sign Height: Thirty-five (35) feet
- iv. Illumination: No
- v. Other Restrictions: See Wall Sign definition

#### E. Street Banners for Civic Events in All Districts

1. A banner for special events designated by the Board of Public Works & Safety of the City of Huntington may be erected no more than thirty (30) days prior to the event and shall be removed no more than seven (7) days after the event. The erection of a banner for a special event is further subject to the approval of the governmental agency having jurisdiction over the proposed location of the banner.

#### F. Grand Opening Signs and Banners in Non-Residential Districts

1. Banners and Ground Signs for grand openings, grand reopening, and similar events may be erected for no more than thirty (30) days.
2. Two (2) on-premise signs per road frontage from the following list are permitted.

- a. Sign Classification: Wall Sign

- i. Animation: Static
- ii. Maximum Sign Area: Twenty-five (25) square feet
- iii. Maximum Sign Height: Twenty (20) feet
- iv. Location: On a wall that abuts road frontage, however more than one sign may be located on any one wall
- v. Illumination: Yes

vi. Other Restrictions: See Wall Sign definition

3. One (1) on-premise sign per road frontage from the following list is permitted.

a. Sign Classification: Ground Sign

i. Animation: Static

ii. Maximum Sign Area: Twenty-five (25) square feet

iii. Maximum Sign Height: Six (6) feet

iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line

v. Illumination: Yes

vi. Other Restrictions: See Ground Sign definition

G. Not For Profit and Community Service Signs in All Districts

1. Signs erected by not for profit groups and community service agencies for a public purpose are allowed in all districts. These static signs shall be set back five (5) feet from any property line and be prohibited from the Corner Vision Clearance area.

H. Mobile Signs in Non-Residential Districts

1. One (1) on-premise sign per parcel from the following list is permitted on a temporary basis. A sign permit shall be required for these signs.

a. Sign Classification: Ground Sign

i. Animation: Static

ii. Maximum Sign Area: Thirty-two (32) square feet

iii. Maximum Sign Height: Six (6) feet

iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line

v. Illumination: Yes

vi. Other Restrictions: See Ground Sign and Mobile Sign definitions

I. Mobile Billboard Signs in Non-Residential Districts

1. For Mobile Billboard Signs, which are intended to travel on public roads for the purpose of advertising, see Off-Premise Signs.

2. One (1) on-premise sign per parcel from the following list is permitted on a temporary basis. A sign permit shall be required for these signs.

a. Sign Classification: Mobile Billboard

i. Animation: Static

ii. Maximum Sign Area: One-hundred (100) square feet

iii. Maximum Sign Height: Fifteen (15) feet

iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line

- v. Illumination: Yes
- vi. Other Restrictions: See Ground Sign and Mobile Sign definitions

#### J. Vehicle Signs in All Districts

1. Signs affixed to vehicle are not regulated by this Ordinance; however, vehicles containing signs are prohibited from locating off-premise for the sole purpose of advertisement without complying with the regulations for off-premise signs. Vehicles performing day-to-day duties, as determined by the Director are exempt from this provision.

#### K. Walking Signs in All Districts

1. Signs affixed to, held by or otherwise attended to a human being for the purpose of commercial solicitation and advertising are regulated by the following. Walking signs are prohibited from residential and conservation districts and do not require a permit.
  - a. Sign Classification: Walking Sign
    - i. Animation: Static
    - ii. Maximum Sign Area: Six (6) square feet
    - iii. Maximum Sign Height: Eight (8) feet
    - iv. Location: Prohibited from roadway surfaces
    - v. Illumination: No
    - vi. Other Restrictions: Signs are permitted from 9:00 am – 5:00 pm daily, prohibited from within thirty (30) feet from intersections and twenty (20) feet from other walking signs, also see Walking Sign definition

### **SECTION 158.030.11 SPECIAL PROVISIONS IN ALL DISTRICTS**

#### A. Service Stations

1. The following on-premise signs are permitted on the premises of motor vehicle service stations in addition to those signs otherwise permitted.
  - a. Signage is permitted on the gas dispenser and shall not exceed a total copy area of four (4) square feet per pump side.
  - b. Eleven (11) additional “vendor” signs per parcel, not exceeding six square feet individually are permitted for the use of vendor advertising area. Of these signs, no more than three (3) may be placed on any wall and no more than eight (8) may be placed elsewhere on the property. These signs are permitted on fences, so long as they face inwards towards the property.

#### B. Churches & Institutions

1. All churches and institutions such as libraries, governmental facilities and other similar uses as determined by the Director in residential districts shall be permitted one (1) on-premise sign per road frontage from the following list to be included as a part of their special exception request when approved by the Board of Zoning Appeals.

a. Sign Classification: Wall Sign

- i. Animation: Static
- ii. Maximum Sign Area: Sixteen (16) square feet
- iii. Maximum Sign Height: Ten (10) feet
- iv. Illumination: None
- v. Other: See Wall Sign definition

b. Sign Classification: Ground Sign

- i. Animation: Static
- ii. Maximum Sign Area: Sixteen (16) square feet
- iii. Maximum Sign Height: Six (6) feet
- iv. Location: Prohibited from Corner Vision Clearance area and must be set back five (5) feet from any property line
- v. Illumination: None
- vi. Other: See Ground Sign definition

C. Public and Private Educational Facilities

1. All public and private educational facilities, such as schools and higher education facilities shall be permitted one (1) on-premise sign from each of the following lists. Temporary signs promoting school pride do not count towards these allowances.

2. One (1) sign per facility which may identify the name of the facility

a. Sign Classification: Wall Sign

- i. Animation: Static
- ii. Maximum Sign Area: Twenty (20) square feet
- iii. Maximum Sign Height: Ten (10) feet
- iv. Illumination: Yes
- v. Other: See Wall Sign definition

3. One (1) sign per road frontage from the following list

a. Sign Classification: Ground Sign

- i. Animation: Static
- ii. Maximum Sign Area: Twenty (20) square feet
- iii. Maximum Sign Height: Six (6) feet
- iv. Illumination: Yes
- v. Other: See Ground Sign definition

D. Athletic Facilities

1. All athletic facilities are permitted three (3) off-premise signs per field, court or other playing surface, which are visible from public rights-of-way. Signs are not to exceed nine (9) square feet each and may not be taller than twelve (12) feet. Signs not visible from public rights-of-way, such as those facing the center of the playing surface, are not limited by this ordinance. Facilities that contain scoreboards are



limited to sixteen (16) square feet of advertising space on the scoreboards, when they can be viewed from public rights-of-way. These signs are exempt from the permit requirements of this ordinance.

2. Signs and banners showing school pride and athletic support are permitted on these parcels. These signs are not limited in size or quantity, but should be kept to a minimum. The Director has the authority to determine when signage is excessive and should be referred to the Board of Zoning Appeals for further approval. These signs are exempt from the permit requirements of this ordinance.

#### E. Banks & Financial Institution

1. Signs advertising interest, loan and similar rates for financial institutions are permitted to be located on the premise of such institutions. Signs are limited to one (1) ground sign per road frontage, no more than six (6) feet in height and no more than six (6) square feet in size. Such signs are prohibited from the corner vision clearance area and must be set back five (5) feet from all property lines. These signs are exempt from the permit requirements of this ordinance.
2. ATM (automated teller machine) shall constitute as one (1) sign, provided that the total area of any signage does not exceed more than 25% of each ATM wall. These percentages cannot be combined on multiple walls to exceed 25%. Where signage exceeds 25% of a given wall, each sign or ATM wall shall be counted independently as deemed appropriate by the Director.

#### F. Residential Subdivisions

1. Signs identifying a residential subdivision are permitted at the entrance of each subdivision. Signs must not interfere with vehicular lines of sight for traffic safety purposes and must be set back five (5) feet from rights-of-way. Signs are limited to one of the following:
  - a. When located in a center median, 1 ground sign per entrance, no more than four (4) feet in height and no more than six (6) square feet in size.
  - b. When located on one or more sides up a subdivision entrance, 1 ground sign per side, no more than four (4) feet in height and no more than six (6) square feet in size.

#### G. Parks

1. Public park or other recreational areas are permitted one sign per entrance or road frontage (whichever is more restrictive) for the purposes of identifying the area. Signs shall be limited to sixteen (16) square feet in size, eight (8) feet in height, and set back five (5) feet from all lot.

### **SECTION 158.030.12 LEGAL NON-CONFORMING SIGNS**

- A. After the enactment of this amendatory Ordinance subchapter, all signs currently in place are permitted to remain, provided all applicable requirements then in place for such sign were met. Previously erected signs determined to be incidental prior to this ordinance, shall be required to comply with all provisions of this amendment.
- B. A legal non-conforming sign shall immediately lose its legal non-conforming status if:
  1. The sign is not kept in good repair and in a safe condition and the state of disrepair or unsafe condition continues for thirty (30) days after notice by the Director.

2. The sign structure has not contained a sign for any period of twelve (12) consecutive months.
3. The sign is relocated, removed or otherwise structurally altered.
4. The complete sign and/or sign structure is replaced
5. The sign permit under which the sign was permitted expires.
6. The sign, by alteration is changed in height, weight, depth or size.
7. On the happening of any one (1) of the above conditions, the sign shall be immediately brought into conformance with this Ordinance, including the acquisition of a sign permit if necessary, or it shall be removed.
8. Nothing in this Ordinance shall relieve the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the provisions of this Ordinance regarding safety, maintenance and repair of signs.

**SECTION 158.035 SCHEDULE OF PERMITTED USES, SPECIAL EXCEPTIONS**

- A. The Permitted Uses and Special Exceptions for each zoning district are delineated in sub section (C) of this Section. The uses that are listed for the various districts shall be according to the common meaning of the term or according to definitions given in Section 158.005.
- B. The Director shall be responsible for all interpretations of uses not specifically listed or defined. Any interpretation made by the Director may be appealed in accordance with the Rules of Procedure of the Board of Zoning Appeals and Section 158.089.
- C. Schedule:

<b>A: Agricultural District</b>	
<u>Permitted Uses</u>	<u>Special Exceptions</u>
Dwelling, Single-family	House of Worship
Livestock Operation, minor or intensive	Nursing Home
Farm	Cemetery
Commercial forestry production	Funeral Home
Fish hatchery	Utility service structure, station, or yard
Manufactured Home Type I	Communication tower
Home Occupation Type I	Group Home
Park	Commercial Recreation Area
Plant nursery	School
Kennel	Manufactured Home Type II
Child care home	Home Occupation Type II
Day care home	Public safety facilities
	Planned Unit Development
	Child caring institution

<b>(FDP) Flood Damage Prevention Overlay District</b>
All uses listed as either permitted uses or special exceptions are permitted in accordance with the underlying zoning district. The Flood Damage Prevention Overlay District only regulates development within the special flood hazard areas. This district is not intended to regulate land use. The underlying zoning district regulates land use.

<b>C-1: Conservation District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Camp grounds
Agricultural uses	Cemeteries
Essential services	Churches
Game preserves	Golf courses
Public parks and playgrounds	Gun clubs
	Public utility buildings
	Riding stables
	Roadside stands offering items only for sale that are produced on the premises
	Single-family dwellings
	Swimming pools
	Transient amusement enterprises and circus shows
	Water and sewage treatment plants

<b>R-1 &amp; R-1A: Residential Districts</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory structures	Agricultural uses
Churches	Cemeteries
Essential services	Fire stations
Public and parochial schools	Home occupations Type II
Public parks and playgrounds	Hospitals and clinics
Single-family dwellings	Municipal buildings and libraries
Home Occupation Type I	Nursery schools
	Parking lots
	Planned unit residential projects
	Private clubs
	Public utility buildings
	Rest homes
	Sanitary landfills
	Sports fields
	Swimming pools
	Water and sewage treatment plants

<b>R-2: Residential District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Fire stations
Boarding houses	Funeral homes
Churches	Home Occupations Type II
College buildings and grounds	Hospitals and clinics
Essential services	Kennels
Public and parochial schools	Multiple-family dwellings
Public parks and playgrounds	Municipal buildings and libraries
Single-family dwellings	Nursery schools
Home occupation type I	Parking lots
Two-family dwellings	Planned unit residential projects
	Private clubs
	Public utility buildings
	Rest homes
	Sports fields
	Swimming pools

<b>R-3: Residential District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Fire Stations
Boarding houses	Funeral homes
Churches	Home occupations Type II
College buildings and grounds	Hospitals and clinics
Essential services	Kennels
Libraries	Mobile home parks
Multiple-family dwellings	Municipal buildings and libraries
Public and parochial schools	Nursery schools
Public parks and playgrounds	Parking lots
Single-family dwellings	Planned unit residential projects
Two-family dwellings	Private clubs
Home occupation Type I	Public utility buildings
	Rest homes
	Sports fields
	Swimming pools

<b>B-1: Business District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Eating and drinking establishment	Automobile sales, service, and repair
Essential services	Churches
Fire stations and municipal buildings	Cleaning and laundry operations
Commercial recreation	Commercial schools
Offices and banks, municipal buildings	Hotels and Motels
Parking lots	Multiple-family dwellings
Personal and professional services	Planned unit residential projects
Public parks and playgrounds	Printing shops
Public utility buildings	Private clubs
Retail businesses	Public & parochial schools
Travel bureaus	Public transportation terminals
Newspapers: Publishing, Printing, and Associated Offices	Public utility buildings
Home Occupation Type I	Home Occupation Type II
	Research laboratories
	Single family dwellings
	Theaters
	Wholesale businesses

<b>B-2: Business District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Animal hospitals
Automobile sales, service, and repair (outside storage areas for vehicles are permitted to store one vehicle for every 100 square feet of lot area, excluding the dimensions of the primary structure. This provision does not apply to any vehicles enclosed within the primary business structure)	Bowling alleys
Beauty and barber shops	Churches
Cleaning and laundry operations	Civic centers
Eating and drinking establishments	Commercial recreation
Essential services	Commercial schools
Fire stations and municipal buildings	Dairies
Hotels and motels	Farm implement sales and service
Mobile home sales	Funeral homes
Offices and banks	Gasoline service stations
Parking lots	Hospitals and clinics
Personal and professional services	Miniature golf courses
Private clubs and lodges	Mobile home parks
Public parks and playgrounds	Multiple-family dwellings
Public utility buildings	Planned unit residential projects
Retail businesses	Printing shops
Home Occupation Type I	Public and parochial schools
	Public Transportation Terminals
	Single-family dwellings
	Supply yard
	Theaters
	Warehouses
	Home Occupation Type II

<b>I-1: Industrial District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Agricultural uses
Essential services	Drive-in theaters
Light manufacturing	Fire stations and municipal buildings
Offices	Motels and hotels
Parking lots	Planned unit residential projects
Public utility buildings	Restaurants
Research and testing labs	Supply yards
Wholesale businesses	Truck and railroad terminals
Home Occupation Type I	Water and sewage treatment plants
	Home Occupation Type II

<b>I-2: Industrial District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Airports
Agricultural uses	Bulk fuel storage
Essential services	Concrete mixing
General manufacturing	Fire stations and municipal buildings
Grain elevators	Junkyards
Offices	Manufacturing and processing of explosive materials
Parking lots	Mineral Excavation
Public utility buildings	Planned unit industrial projects
Research and testing	Restaurants
Supply yards	Water and sewage treatment plants
Truck and railroad terminals	Home occupation type II
Warehouses	
Wholesale businesses	
Home Occupation Type I	

<b>I-3: Industrial District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Petroleum and chemical products terminal, including offices, storage tanks, and warehouses	Junkyard
Truck terminal	
Public utility buildings and service yard	
Electrical receiving or transforming station	

<b>I-4: Industrial District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Mining or quarrying operations, including on-site sale of products	
Concrete or asphalt plant	
Mineral processing operations, including storage, distribution, and on-site sale of products	

<b>(AHR) Airport Height Restriction Overlay District</b>
All uses listed as either permitted uses or special exceptions are permitted in accordance with the underlying zoning district. The Airport Height Restriction Overlay District only regulates the height of structures that exist or are proposed on lands within the overlay district. This district is not intended to regulate land use. The underlying zoning district regulates land use



<b>POD: Professional Office District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Professional Offices	Retail Businesses
Medical, Dental, and Optical offices and clinics	Banks and Financial institutions without drive-in facilities
Business Offices	

<b>MXD: Mixed Use District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Single Family Dwellings	Two Family Dwellings
Public Parks and Playgrounds	Multiple Family Dwellings
Veterinary offices and clinics	Churches or House of Worship
Appliance sales, service, and repairs	Private clubs and lodges
Professional offices and services	Child care center/preschool facilities
Business offices and services	Hospitals
Medical and dental offices and clinics	Retail package liquors
Travel agencies	Nursing and convalescent facilities
Banks and financial institutions	Funeral Homes
Retail video store, excluding a video arcade	Public utility buildings
Financial, insurance, and real estate offices	Eating and Drinking establishments
Service Establishments including: barber shops, beauty shops, shoe repair, dry cleaning stations, Laundromats, and similar establishments	Retail outlets including hardware stores, sporting goods stores, home furnishing stores, and similar establishments
Retail outlets including bookstores, card and gift shops, arts and craft stores, clothing stores, shoe stores, toy stores, jewelry stores, antique stores, and similar establishments	Shelters, including homeless shelter, mission home, home for unwed mothers, and similar facilities
Home Occupation Type I	Retail food markets
	Home Occupation Type II

<b>BP - Business Park</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Eating and drinking establishments	Hospitals
Hotels	Churches
Business and professional offices	Commercial recreation
Theaters	Schools
Personal and professional services	Funeral Homes
Private clubs and lodges	Gasoline service stations
Fire stations and municipal buildings	Automobile sales, service and retail repair
Businesses	
Banks	
Medical and dental offices and clinics	
Reception halls/meeting facilities	
Travel bureaus	
Public park and playgrounds	
Printing shops	
Essential services	
Light manufacturing	
Warehouses	
Public utility buildings	

<b>AZ: Airport District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Terminal, freight and Passenger	Utility service structure, station or yard
Airplane hangers	
Airplane repair facilities	
Accessory uses to support airport operations	

<b>IP: Industrial Park District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Manufacturing	Utility service, station, or yard
Warehousing	Communication tower
	Convenience store/fuel station
	Truck Stop
	Business offices

**SECTION 158.036 NON-CONFORMING STRUCTURES AND USES**

- A. A nonconforming use, which occupies a portion of a structure or premises, may be extended within that structure or premises, as they existed when the prohibitory provisions took effect, but not in violation of the area and yard requirements of the district in which the structure or premises are located. No change of a nonconforming use shall entail structural alterations or any additions other than those required by law for the purpose of safety and health.
- B. The Board of Zoning Appeals may impose any conditions, as it deems necessary for the protection of adjacent property and the public interest.
- C. No nonconforming structure or use shall be changed to another nonconforming use without approval from the Board of Zoning Appeals.
- D. In the event that any nonconforming use, conducted in a structure or otherwise, ceases, for whatever reason, for a period of one year, that nonconforming use shall not be resumed.
- E. Subject to §158.049, any nonconforming structure damaged by fire, flood, or other casualty may be reconstructed and used as before if the reconstruction is performed within 12 months of the casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before the casualty.
- F. Nothing in this chapter shall prevent the reconstruction, repair, or rebuilding of a nonconforming structure or part thereof existing at the effective date of this chapter, rendered necessary by wear and tear, deterioration, or depreciation provided the cost of such work shall not exceed 50% of the assessed value of the structure at the time work is done, nor prevent compliance with the provisions of the One and Two Family Dwelling Code relative to the maintenance of buildings or structures.
- G. Junk Yards:
  - 1. Within one year of the effective date of this chapter, all existing junkyards must be screened and surrounded by a solid, continuous fence or wall of at least eight feet in height to screen enclosed contents from public view.
  - 2. In the event that a site cannot obtain screening due to conflict with the fencing regulations in Chapter 152, that site shall then be deemed a public nuisance and will be subject to any provisions requested by the Plan Director for the removal of all junk from the site.
  - 3. The Plan Director shall have the authority to promulgate rules and regulations governing the location, planting, construction, and maintenance of all materials used for the required screening of those junkyards.
  - 4. No junkyard shall be established within 75 feet from any residential zone

- H. A non-conforming structure may be enlarged or expanded if all of the following are adhered to:
1. The addition shall not extend into any required front yard beyond the existing structure.
  2. The addition shall not extend into any required side yard beyond the existing structure.
  3. The addition shall not extend into any required rear yard beyond the existing structure.
  4. The addition shall not extend any closer to an intersection of streets or other right-of-way than the existing structure.
  5. The addition may extend beyond the existing structure only when said addition meets all required setbacks and regulations of this chapter.
- I. Governmental Acquisition – any legally established building, structure, sign, or portions thereof, which either becomes nonconforming or increases the extent of nonconformity as a result of the acquisition of land for right-of-way or other purposes by a governmental entity, subdivision or agency shall be subject to the following provisions:
1. Buildings or Structures – any building or structure which becomes nonconforming or increases the extent of nonconformity as to setbacks as a result of a governmental acquisition may continue to be used or occupied provided the building or structure maintain compliance with all other applicable health, safety and building codes.
  2. Casualty – any building or structure which becomes nonconforming or increases the extent of nonconformity as to setbacks as a result of a governmental acquisition which is subsequently damaged by fire, flood, or other casualty may be reconstructed and used as before if the reconstruction is performed within 12 months of the casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before the casualty.
  3. Enlargement or Expansion – any building or structure which becomes nonconforming or increases the extent of nonconformity as to setbacks as a result of a governmental acquisition may subsequently be enlarged or expanded as long as the enlarged or expanded portion of the building or structure meets all applicable setback requirements in the zone the building or structure is located.
  4. Signs – any legally established sign which becomes nonconforming or increases the extent of nonconformity as to setbacks as a result of a governmental acquisition may continue to be used provided that no portion of the sign encroaches into any public right-of-way, interferes with the stated purpose of the governmental agency's acquisition, or otherwise creates a safety hazard.
  5. Lot Area – any lot or parcel which becomes nonconforming or increases the extent of nonconformity as to minimum lot area as a result of a governmental acquisition may continue to be used or occupied provided that other applicable requirements of this code are met.

**SECTION 158.037      ACCESSORY STRUCTURES AND USES**

- A. Accessory structures are permitted in all zoning districts.
- B. Accessory structures shall adhere to the minimum front yard setback required for principal structures within the applicable zoning district.
- C. Residential accessory structures shall maintain a minimum side yard and rear yard setback of five (5) feet. A residential accessory structure that is one hundred twenty (120) square feet or less in size, and is not installed or constructed on a permanent foundation, may be installed or constructed within (2) feet of the side or rear property line.
- D. Accessory structures shall not be located within seven (7) feet from the intersection of any rights of way.
- E. Any accessory structure in excess of 120 square feet which is constructed or located within six feet of the principal structure shall be constructed in accordance with the Indiana Residential Code.
- F. The total gross floor area of all accessory structures under roof on a lot shall not exceed the total gross floor area of the principal structure on the lot. If no principal structure exists on the lot, the total gross floor area of all accessory structures under roof on a lot shall be one thousand five hundred (1,500) square feet.
- G. Any accessory structure, which is attached to the principal structure, shall maintain the minimum side and rear yard setback required of a principal structure.
- H. No accessory structure shall be constructed or erected within a recorded easement without written approval from the easement holder(s).
- I. In addition to this chapter, all fences shall conform to the standards set forth in §150.52.
- J. In addition to this chapter, all swimming pools shall conform to the standards set forth in §150 and 675 IAC Article 20.

**SECTION 158.038      DEVELOPMENT STANDARDS**

- A. Corner lots shall provide the required front yard setback along both streets, and provide the required side yard setback along the remaining property lines.
- B. No portion of a primary structure shall extend or project into any minimum front, side or rear yard, with the following exceptions:
  - 1. Roof overhang not exceeding twenty-four (24) inches.
  - 2. Window or door awnings.
  - 3. Air conditioner/heat pump.
  - 4. Concrete patios and porches not under roof
  - 5. Stairs not under roof
  - 6. Wheelchair ramps constructed in accordance with accessibility standards.
- C. In any zoning district, the minimum depth of a front yard setback may be the average of the front yard setback of existing conforming and non-conforming structures. The existing conforming and non-conforming structures shall be located on the same side of the street and between the two (2) closest intersecting streets.
- D. The placement of a mobile or modular home on a single platted or unplatted lot shall be a minimum of 3,600 square feet.
- E. Any lot of record existing at the effective date of this chapter and then held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its area and width are less than the minimum requirements of this chapter.
- F. The minimum and maximum development standards for each zoning district are as follows:

ZONING DISTRICT	MINIMUM LOT		MAXIMUM RESIDENTIAL DENSITY (Per Acre)	MINIMUM GROUND FLOOR AREA (Sq. Ft.)	MINIMUM LOT WIDTH (Feet)	MINIMUM SETBACKS			MAXIMUM HEIGHT		
	AREA (Sq. Ft.) (Acres)	AREA PER FAMILY (Sq Ft.)				FRONT YARD (Feet)	SIDE YARD (Feet)	REAR YARD (Feet)	PRINCIPAL STRUCTURE (Feet)	ACCESSORY STRUCTURE (Feet)	
A	2 Acres	2 Acres	0.50	720	200	50	25	25	40	30	
C-1	1.5 Acres	1.5 Acres	0.67	720	200	40	20	20	35	25	
R-1	Sewer	10,000	10,000	4.36	720	70	30	10	20	35	20
	Septic	1.5 Acres	1.5 Acres	0.67		200					
R-1A	Sewer	8,500	8,500	5.12	720	65	25	6	20	35	20
	Septic	1.5 Acres	1.5 Acres	0.67		200					
R-2	Sewer	7,500	4,000	10.89	720	60	20	6	15	35	20
	Septic	1.5 Acres	1.5 Acres	0.67		200					
R-3	Sewer	6,500	2,000	21.78	720	60	20	6	15	35	20
	Septic	1.5 Acres	1.5 Acres	0.67		200					
MXD	6,500	6,500	6.70	720	60	25	6	20	35	20	
B-1	3,000	4,000	10.89	720	30	0	0	0	50	25	
B-2	10,000	10,000	4.36	720	70	30	10	10	40	25	
I-1	20,000	N/A	N/A		100	30	20	20	45	35	
I-2	80,000	N/A	N/A		200	35	20	20	55	35	
I-3	1 Acre	N/A	N/A		100	40	25	30	55	40	
I-4	2 Acres	N/A	N/A		100	40	25	30	55	40	
IP	0.5 Acres	N/A	N/A		75	30	15	20	45	35	
POD	10,000	N/A	N/A		60	30	15	15	35	20	
BP	10,000	N/A	N/A		60	30	20	20	35	20	
AZ	5A	N/A	N/A		100	50	10	10	35	30	

**SECTION 158.039 HEIGHT EXCEPTIONS**

- A. The maximum height limitations in §158.030(F) shall not apply to church spires; flagpoles; antennas; chimneys; and water towers. However, such features shall not exceed a height of one hundred fifty (150) feet and shall comply with §158.053.

**SECTION 158.040 OFF-STREET PARKING**

Off-street parking spaces shall be provided in accordance with the specifications of this section in all districts, whenever any new use is established or existing use is enlarged.

A. Number of spaces required:

<b>USE DESCRIPTION</b>	<b>NUMBER OF SPACES REQUIRED</b>
Agricultural uses	There shall be no requirement except with respect to roadside stands and similar uses when an adequate number of spaces is required to serve the public
Residential uses	One per dwelling plus one for every two bedrooms
Institutional uses, including nursing homes, hospitals, and similar institutions	One space for each three patients' bed, plus one space for each two employees per largest working shift
Children's homes, day nurseries, kindergartens, child caring, and similar institutions	One parking space for each six children's beds, plus one space for each two employees per largest working shift
Clubs, lodges, community centers	One parking space for each 200 square feet of gross floor area
Public buildings, utilities and public service used including libraries, museums, and similar places of assembly	One parking space for each 200 square feet of gross floor area, or one space for each two employees per largest working shift, whichever is greater
Schools, public and private	
A. Elementary or junior high	At least three parking spaces shall be provided for each classroom
B. High school	At least six parking spaces shall be provided for each classroom
C. Sports arena	At least one parking space shall be provided for each five seats when the facility is of an independent nature. When such facility is utilized in conjunction with a school, either the parking requirement based on seating capacity of the largest single facility contained herein or the above requirement based on classroom number shall be applicable, whichever results in the greater number of spaces.
Churches, theaters, auditoriums, assembly halls, undertaking establishments, and similar places of congregation	One parking space for each five seats in the main sanctuary or room, plus one space for each employee per largest working shift
Boarding schools, vocational and trade schools, colleges, and similar educational institutions	One parking space for each six students based on the maximum number of the students attending classes on the premises at any one time during a 24-hour period
Group housing, including rooming and boarding houses, dormitories, elderly housing, fraternities, and sororities	One parking space for each two beds, or each two sleeping units, rooming units, or dwelling units in the case of elderly housing, plus one space for each employee per largest working shift
Hotels, motels, apartment hotels, and similar lodging and accommodation facilities for the transient public (exclusive of retail sales uses)	One parking space for each lodging room or dwelling unit, plus one space for each five employees per largest working shift



<b><u>USE DESCRIPTION</u></b>	<b><u>NUMBER OF SPACES REQUIRED</u></b>
Professional and Business Offices	One parking space for each 250 square feet of gross floor area
Medical, Dental, and Optical offices and clinics	One parking space for each 200 square feet of gross floor area, plus a minimum of three parking spaces for staff or employees
Furniture store, household appliance, mechanical trades display stores, or other similar use	At least one parking space for each 1,000 square feet of gross floor area thereof plus one space for each 1,500 square feet of the gross area of floors other than the ground floor used for sales, displays or show purposes
Food market or other similar use with a gross floor area of less than 2,500 square feet	At least one parking space for each 100 square feet of gross floor area thereof
Retail store or service except those specified above	At least one parking space for each 400 square feet of gross floor area
Eating & drinking establishments, including restaurants, lunch counters, taverns, and night clubs, except drive-in establishments	One parking space for each four customer seats
Drive-in establishments	Two parking spaces for each 100 square feet of gross floor area, plus one space for each employee per largest working shift.
Open-air type businesses including auto and boat sales, kennels, plant nurseries, and commercial amusement establishments	One parking space for each employee per largest working shift
Automobile service station	One parking space for each use employee per largest working shift, plus two spaces for each service stall
Commercial, manufacturing, and industrial establishments not catering to retail trade	One parking space for each two employees per largest working shift plus an adequate number of spaces for visitors and company vehicles operating from the premises

- B. For uses not specified in this section or in that instance when the requirement for an adequate number of spaces is unclear, the number of parking spaces shall be determined by the administrative official, on the basis of similar requirements, the number of persons served or employed, and the capability of adequately serving the visiting public. The determination may be reviewed by the Commission or appealed to the Board of Zoning Appeals.
- C. All land which is used for off-street parking, except for any one or two-family dwelling unit, shall be landscaped to aid in controlling the circulation of cars and pedestrians, to identify entrances and exits, and to improve the appearance and the use in order to maintain property values in the area by adhering to the following requirements contained herein.
1. All open, off-street parking areas shall maintain shade trees of a variety to this region and totaling an amount of mature tree canopy equal to not less than 1% of the surfaced parking area. The minimum size tree island shall not be less than 70 square feet.
  2. Screening, consisting of a hedge, wall, berm, or uniformly painted fence to provide a visual separator and physical barrier with a maximum height of three feet shall be provided between the off-street parking and all adjacent residential and business areas. Those lots adjacent to a residential district shall

provide screening between that land and the residential district not less than six feet in height.

3. The total landscaped area for any parking lot or development shall not be less than 10% of the total gross area of impervious surface. The owner shall be responsible for the perpetual maintenance of the green space. Landscaping shall consist of a combination of living vegetation such as trees, shrubs and grasses or ground cover materials. Existing preserved natural vegetation areas that are to remain after the development shall count towards satisfying this requirement. Loose stone, rock or gravel may be used as a landscaping accent but it shall not exceed 20% of the required landscaping area.

D. Setbacks. All land use for off-street parking in districts for which front yards are required by this section shall be located not less than five feet from any property line abutting a street; provided that nothing in this division shall be deemed to apply to any off-street parking space or driveway thereto for any single-family or two-family dwelling unit.

E. Curbing. All parking lots shall have curbings around perimeters at a sufficient location to keep vehicles from overhanging or encroaching upon abutting properties, streets, alleys, or sidewalks. Curbings are also to be used to facilitate drainage and insure discharge of water onto abutting properties.

F. Lighting. Any light used to illuminate land used for off-street parking or driveways thereto shall be installed on private property and maintained so as to reflect light away from any adjoining property. It shall also be designed to avoid glare into street rights-of-way.

G. Minimum design standards for parking lots. All off-street parking areas must meet the following minimum design standards:

1.

<u>Surfaces</u>	<u>Drives &amp; Service Areas</u>	<u>Parking Only</u>
<b>Concrete</b>	<b>8 Inches</b>	<b>6 Inches</b>
<b>Flexible asphalt</b>		
Surface	1 Inches	1 Inches
Binder	3 Inches	3 Inches
Aggregate base	10 Inches	8 Inches
<b>TOTAL THICKNESS</b>	<b>14 Inches</b>	<b>12 Inches</b>
<b>Deep strength asphalt</b>	<b>8 Inches</b>	<b>6 Inches</b>

2. The use of porous asphalt or pervious concrete shall be permitted surfaces and be professionally design to satisfactorily meet the demands of their intended use.

**SECTION 158.041      MOBILE HOME PARKS**

Mobile home parks, where permitted, shall be in accordance with the Mobile Home Park Act of 1955, as amended; the Indiana State Board of Health Regulations, as amended; and the requirements of this section.

- A. The minimum area of a mobile home park shall be five acres.
- B. Each mobile home site within the mobile home park shall have a minimum lot area of 3,600 square feet.
- C. Each mobile home site shall have a minimum lot width of 40 feet.
- D. All structures within the mobile home park will adhere to the following setbacks requirements when abutting properties not associated/part of the mobile home park:
  - 1. Twenty five (25) feet from the right-of-way of all roads;
  - 2. Twenty (20) feet from all side yard property lines;
  - 3. Twenty (20) feet from all rear property lines.
- E. All structures within the mobile home park will adhere to the following setback requirements for properties contained within or associated with the mobile home park:
  - 1. Fifteen (15) feet from right-of-way, or forty (40) feet from the centerline of roadways associated with the mobile home park;
  - 2. Six (6) feet from all side property lines internal to the mobile home park;
  - 3. Ten (10) feet from all rear property lines internal to the mobile home park
- F. Not less than 10% of the gross area of the mobile home park shall be improved for recreational activities for the residents of the park.
- G. The mobile home park shall be appropriately landscaped and screened from adjacent properties.
- H. The mobile home park shall meet all applicable requirements of Chapter 156.
- I. Coin-operated laundries, laundry and dry-cleaning pick-up stations, and other commercial convenience establishments may be permitted in mobile home parks provided:
  - 1. They are subordinate to the residential character of the park;
  - 2. They are located, designed, and intended to serve only the needs of persons living in the park;
  - 3. The establishments and the parking areas related to their use shall not occupy more than 10% of the total area of the park; and
  - 4. The establishment shall present no visible evidence of their commercial nature to areas outside the park.

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

K. All mobile homes shall be placed in conformance with the Indiana Residential Code.

**SECTION 158.042 MOBILE HOMES, MODULAR HOMES: EXCEPTIONS**

Upon petition, notice hearing, and conditions set forth in this section, the City Board of Zoning Appeals shall have the authority to authorize the placement of a mobile or modular home on an individual lot or tract of real estate. Minimum conditions are hereinafter set forth.

- A. Minimum lot size - one mobile or modular home per existing platted or unplatted area which lot or unplatted area shall have a minimum area of 3,600 square feet.
- B. Districts permitted - A single mobile or modular home shall be permitted by special exception by the Board of Zoning Appeals in all districts except R-1 and R-1A. A mobile or modular home shall comply with front, side, and rear yard requirements of the district in which it is proposed to be placed, and in compliance with the covenants of the platting of that lot.
- C. Age - No mobile or modular home may be placed upon a lot or tract of real estate, either initially or as a replacement, if the proposed home is older than June 15, 1976.
- D. Minimum living space - No mobile or modular home shall be placed, erected, or altered so that its ground floor area is less than 720 square feet exclusive of porches, terraces, garages, and exterior stairs.
- E. Parking - Not less than two off-street parking spaces shall be provided for each single or modular home site.
- F. Accessory buildings - Accessory buildings and structures such as private garages and tool sheds may be permitted to be placed on a mobile or modular home site if the accessory structure meets all the general requirements of the district in which the mobile or modular home is being placed or erected.
- G. Compliance - Within 30 days after location, the wheels of the mobile home shall be removed and a skirting of wood or metal shall be affixed. Each mobile or modular home shall contain a flush toilet, sleeping accommodations, a tub or shower, kitchen facilities, and plumbing and electrical connections designed for and attached to appropriate external systems. Each mobile or modular home shall be connected to city water and sewer facilities. The Board of Zoning Appeals shall also have the power to impose further conditions within the general framework of a special exception.
- H. Abandonment - If a single mobile or modular home has been granted permission by the Board of Zoning Appeals to be placed or erected, and is thereafter destroyed by fire or other casualty or act of God, the destruction shall not constitute an abandonment and the present owner shall have the right to replace the destroyed mobile or modular home with another which meets the general zoning requirements of the district for the existing use in reference to the back, side, and rear yard setbacks. An existing mobile or modular home may be replaced with a newer or larger model provided the replacement model meets all of the requirements herein specified for the district or the covenants of the lot or the existing use in the area.

**SECTION 158.043 MOBILE DWELLING UNITS**

- A. For the purpose of this section, a "MOBILE DWELLING UNIT" shall mean living quarters such as house trailers, truck bodies, tents, bus bodies, railroad cars while off tracks, shacks, and improvised shelters which may be moved by tractor, truck, automobile, or horses or can be carried, transported, or towed from one place to another without the use of regular house-moving equipment.
- B. Use for those living quarters shall include the acts of sleeping, preparation of meals, or any sanitary measure such as bathing, dishwashing, or laundering clothing or any natural or performing operation, which provides waste material objectionable from a nuisance standpoint.
- C. This type of mobile dwelling unit shall be permitted only in a mobile home court or trailer or public camp approved by the Indiana State Board of Health.

**SECTION 158.044      PLANNED UNIT PROJECTS**

The district regulations of this chapter may be modified by the Board of Zoning Appeals in the case of a plan utilizing an unusual concept of development, which meets the requirements of this section. The planned unit projects provision is intended to encourage original and imaginative development and subdivision design, which preserves the natural amenities of the site and provides for the general welfare of the city. After the unit plan is approved, all development, construction, and all use shall be in accordance with that plan unless a new planned unit project plan is submitted to and approved by the Board of Zoning Appeals as required by this chapter. Any development contrary to the approved unit plan shall constitute a violation of this chapter.

- A. The area of land to be developed shall not be less than five acres.
- B. Properties adjacent to the unit plan shall not be adversely affected.
- C. In planned unit residential projects, the minimum lot yard requirements may be reduced; however, the average density of dwelling units in the total unit plan shall not be higher than that permitted in the district in which the plan is located.
- D. In planned unit business and industrial projects, the minimum lot and yard requirements may be reduced; however, the total land area of the unit plan shall equal the accumulative lot area requirements of each use or structure contained within the unit plan.
- E. The unit plan shall permanently reserve land suitable for the common use of the public or the owners in a particular development. This may be accomplished by dedication, covenant, or easement. This land may be for future public facilities, for recreational or scenic open space, or for a landscaped buffer zone as approved by the Plan Commission. Provisions for permanent control and maintenance of this land shall be outlined in a form acceptable to the Plan Commission and the Board of Zoning Appeals.
- F. The use of the land shall not differ substantially from the uses permitted in the district in which the plan is located, except that limited business facilities, intended to serve only the planned unit residential project area and fully integrated into the design of the project, may be considered and multiple-family dwellings may be considered in single-family residential districts if they are so designed and sited that they do not detract from the character of the neighborhood in which they occur.
- G. The unit plan shall be consistent with the purpose of this chapter.
- H. The unit plan shall be reviewed, and recommendations made, by the City Plan Commission to determine if the proposed project is consistent with the City Comprehensive Plan and in the best interest of the city.

**SECTION 158.045      TEMPORARY STRUCTURES**

Temporary structures used in conjunction with construction work, seasonal sales, or emergencies may be permitted by the Board of Zoning Appeals if the proposed site is acceptable and neighboring uses are not adversely affected. They shall be removed promptly when their function has been fulfilled. Permits for temporary structures may be issued for a period not to exceed six months. Residing in basement or foundation structures shall not be permitted.

**SECTION 158.046      HOME OCCUPATIONS**

- A. Purpose and intent. It is the purpose and intent of this section to provide for certain types of home occupations to be conducted within a dwelling unit or accessory structure on the resident's premises. Two classes of home occupations are established based upon the type and intensity of the home occupation. Accordingly, minimum standards have been established for each class of home occupation in order to assure the compatibility of home occupations with other uses permitted in the applicable district and to preserve the character of residential neighborhoods.
- B. Home Occupations - Home Occupations shall not be permitted except in compliance with Chapter 158 and other applicable law.
- C. Application for Home Occupation - An application for an Administrative Permit for a Type I Home Occupation or Special Exception Permit for a Type II Home Occupation shall be signed by all owners and adult residents of the property in question and filed with the Department on forms provided by the Department. The Director shall review the application and classify the proposed home occupation as a Type I or II based upon:
  - 1. The established standards for Type I and Type II home occupations described in Section 158.046 (D) and 158.046 (E); and
  - 2. General planning and zoning standards established by the Zoning Code.
- D. Type I Home Occupation
  - 1. The following standards are applicable to all Type I Home Occupations:
    - a. No person other than residents of the dwelling unit on the subject premises named in the application shall be engaged in such home occupation.
    - b. No more than twenty (20) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. The home occupation may not utilize more than fifty (50) percent of any one floor of the dwelling unit.
    - c. No outdoor storage or display of products, equipment, or merchandise is permitted.
    - d. No retail sales shall be conducted on the premises.
    - e. No publication or advertising shall use the residential address of the home occupation.
    - f. Exterior evidence of the conduct of a home occupation is not permitted.

- g. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
- h. No equipment, process, or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical or television interference which is detectable to the normal senses outside the dwelling unit or accessory structure.
- i. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one (1) dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
- j. No specific outside entrance or exit for the home occupation shall be permitted.
- k. No sign shall be permitted.
- l. No use, storage, or parking of tractor-trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises.

2. The following uses are examples of home occupations, which may be classified as a Type I:

- a. Telephone answering and solicitation
- b. Home crafts
- c. Computer programming, desktop publishing
- d. Typing or secretarial service
- e. Painting, sculpturing or writing
- f. Dressmaking, sewing, or tailoring
- g. Drafting, surveying service
- h. Consulting services
- i. Mail order business, not including retail sales from site
- j. Sales representative, office only

E. Type II Home Occupation

1. The following standards are applicable to all Type II Home Occupations:

- a. One (1) person other than the residents of the dwelling unit on the subject premises named in the application may be engaged in such home occupation.
- b. No more than twenty-five (25) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. The home occupation may not utilize more than fifty (50) percent of any one floor of the dwelling unit.

- c. No outdoor storage or display of products, equipment or merchandise is permitted.
  - d. Retail sales are permitted only as an accessory use to the primary home occupation (e.g. beauty salon can sell shampoo and beauty products).
  - e. Exterior evidence of the conduct of a home occupation is not permitted except one (1) non-illuminated sign not to exceed eight (8) square feet, which must be mounted flat against the exterior wall of the dwelling unit.
  - f. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
  - g. No equipment, process or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical or television interference which is detectable to the normal senses outside the dwelling unit or accessory structure.
  - h. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
  - i. A minimum of two (2) off-street parking spaces, in addition to those required for the dwelling unit, shall be provided for use by patrons of the home occupation. The Board of Zoning Appeals may require additional off-street parking based upon the use and location of the property.
  - j. No use, storage, or parking of tractor-trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises.
2. The following uses are examples of home occupations, which may be classified as a Type II:
- a. Attorney office
  - b. Insurance sales or broker
  - c. Real estate sales or broker
  - d. Jewelry repair
  - e. Shoe repair
  - f. Carpentry, cabinetmakers
  - g. Ceramics, which involve the use of a kiln
  - h. Medical or dental office
  - i. Catering or food preparation
  - j. Pet grooming service
  - k. Barber or beauty shop



l. Photo developing, photo studio

m. Appliance repair

F. General Provisions - all home occupations shall conform to the following standards:

1. Approval of a home occupation is not transferable to a location other than that which was approved.
2. In no case shall a home occupation be open to the public at times neither earlier than 7:00 a.m. nor later than 9:00 p.m.
3. All home occupations shall be subject to periodic inspections. Reasonable notice shall be provided to the permittee prior to the time requested for an inspection.
4. The Director, in the case of an Administrative Permit for a Type I Home Occupation, or the Board of Zoning Appeals in the case of a Special Exception Permit for a Type II Home Occupation, may impose reasonable conditions necessary to protect the public health, safety, and welfare, or to protect against a possible nuisance condition.
5. Administrative Permits issued by the Director, or Special Exception Permits issued by the Board of Zoning Appeals may be revoked by the issuing authority for cause after reasonable notice to the permittee and an opportunity for hearing on the matter.
6. Home occupations shall commence only after the receipt of an Administrative Permit if classified as a Type I, or Special Exception Permit if classified as a Type II.

G. Permit Review Process - Applications for a home occupation shall be reviewed as follows:

1. Application filed, with authorization from property owner.
2. Review of application by Director to determine classification as a Type I or Type II.
3. If classified as a Type I:
  - a. Director can approve or deny the application.
  - b. If approved, an Administrative Permit for the home occupation shall be issued.
  - c. Director may impose reasonable conditions as part of the approval.
  - d. Applicant may appeal to the Board of Zoning Appeals if application is denied or conditions are unacceptable. An appeal must be filed within 10 days of the date of the Directors determination.
4. If classified as a Type II, the application shall be reviewed and treated as a Special Exception request.
5. The standards set forth in Section 158.046(D), 158.046(E), and 158.046(F) shall be incorporated as minimum conditions of approval.

H. Enforcement - In the event the Director determines that the operation of any home occupation is in violation of Chapter 158 or any permit condition, notice shall be provided to the permittee setting forth a

description of the violation, corrective action required, and a date by which such corrective action must be accomplished. The permit may be revoked if not corrected in the manner and by the date specified in the notice in accordance with revocation procedures applicable to Special Exceptions. In addition, violations of this Section are subject to the penalties provided for in Section 158.999.

**SECTION 158.047 CHILD CARE FACILITIES**

- A. Day care centers are any buildings used for day care purposes for more than six children.
- B. Every day care center facility shall be constructed and conform to all rules and regulations of the Uniform Building Code.
- C. All persons wishing to operate a day care facility for more than six children must make application to the Board of Zoning Appeals for their approval.

**SECTION 158.048 AWNINGS**

- A. Fixed awnings conforming to the provisions of this chapter shall be permitted on all buildings.
- B. Every fixed awning shall be located as not to interfere with the operation of any exterior standpipe, stairway, or exit from any building.
- C. No fixed awning shall be used as a landing for any fire escape or exterior stair.
- D. Fixed awnings, including supporting frames, arms, brackets, and other devices shall be constructed throughout of incombustible material, except that glass or fragile material shall not be used in any part of the awning.
- E. No part of a fixed awning projecting over a public way shall be less than seven feet above the existing or finished grade under that awning where pedestrian traffic is a consideration.
- F. No part of a fixed awning projecting over a public way shall be less than 14 feet above the existing or finished grade where vehicular traffic is a consideration.
- G. The Plan Director shall have the right to compel the removal of any awning erected, altered, or repaired in violation with this section.

**SECTION 158.049 FLOOD DAMAGE PREVENTION (FDP)**

(A) Statutory Authority, Findings of Fact, Purpose and Methods

(1) Statutory Authority

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the Common Council of the City of Huntington does hereby adopt the following floodplain management regulations.

(2) Findings of Fact

The flood hazard areas of the City of Huntington are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(3) Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (f) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight area;
- (g) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (h) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (i) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (j) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (k) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (l) Meet community participation requirements of the National Flood Insurance Program.

(4) Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (e) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(B) Definitions

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them meaning they have in common usage and to give these regulations the most reasonable application.

**“ALTERATION OF A WATERCOURSE.”** a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard or change the direction and/or velocity of the flow of water during conditions of the base flood.

**“ACCESSORY STRUCTURE.”** a structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

- (1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- (2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.
- (3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
  - a. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;
  - b. Structures used by the public, such as a place of employment or entertainment; and,

- c. Development that does not meet the NFIP definition of a structure (for floodplain management purposes). Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

**“ADDITION.”** (to an existing structure) any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

**“APPEAL.”** a request for a review of the floodplain administrator’s interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

**“AREA OF SPECIAL FLOOD HAZARD.”** the land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.

**“BASE FLOOD.”** the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

**“BASE FLOOD ELEVATION (BFE).”** the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

**“BASEMENT.”** that portion of a structure having its floor sub-grade (below ground level) on all sides.

**“BEST AVAILABLE FLOOD LAYER (BAFL).”** floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

**“BUILDING.”** – see "Structure."

**“COMMUNITY.”** a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

**“CRITICAL FACILITY.”** a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

**“DEVELOPMENT.”** (for floodplain management purposes), any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;

- (6) construction and/or reconstruction of boat lifts, docks, piers and seawalls;
- (7) construction and/or reconstruction of, bridges or culverts;
- (8) storage of materials; or
- (9) Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting; re-roofing; resurfacing roads; or, gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**"ELEVATION CERTIFICATE."** a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

**"ENCLOSED AREA."** (enclosure) an area of a structure enclosed by walls on all sides.

**"ENCLOSURE BELOW THE LOWEST FLOOR."** see "Lowest Floor" and "Enclosed Area."

**"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION."** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

**"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION."** the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"FEMA."** the Federal Emergency Management Agency.

**"FILL."** (for floodplain management purposes), any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

**"FLOOD OR FLOODING."** a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- (3) mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

**“FLOOD HAZARD AREA.”** areas subject to the one percent (1%) annual chance flood. (See “Special Flood Hazard Area”)

**“FLOOD INSURANCE RATE MAP (FIRM).”** an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**“FLOOD INSURANCE STUDY (FIS).”** the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

**“FLOOD PRONE AREA.”** any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Floodplain”)

**“FLOOD PROTECTION GRADE (FPG).”** is the BFE plus three (3) feet at any given location in the SFHA. (See “Freeboard”)

**“FLOODPLAIN OR FLOOD PRONE AREA.”** any land area susceptible to being inundated by water from any source. (See “Flood”)

**“FLOODPLAIN MANAGEMENT.”** the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**“FLOODPLAIN MANAGEMENT REGULATIONS.”** zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**“FLOODPROOFING (DRY FLOODPROOFING).”** a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

**“FLOODPROOFING CERTIFICATE.”** a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

**“FLOODWAY.”** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

**“FREEBOARD.”** a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

**“FRINGE”** or **“FLOOD FRINGE.”** the portion of the floodplain lying outside the floodway.

**“FUNCTIONALLY DEPENDENT USE.”** a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**“HARDSHIP.”** (as related to variances of this section) the exceptional hardship that would result from a failure to grant the requested variance. The City of Huntington Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**“HIGHEST ADJACENT GRADE.”** the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**“HISTORIC STRUCTURE.”** any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

**“HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS.”** analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

**“INTERNATIONAL CODE COUNCIL-EVALUATION SERVICE (ICC-ES) REPORT.”** a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

**“LETTER OF FINAL DETERMINATION (LFD).”** a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.



**“LETTER OF MAP CHANGE (LOMC).”** a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

- (1) **“CONDITIONAL LETTER OF MAP REVISION (CLOMR).”** FEMA’s comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
- (2) **“CONDITIONAL LETTER OF MAP REVISION BASED ON FILL (CLOMR-F).”** a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- (3) **“LETTER OF MAP AMENDMENT (LOMA).”** an amendment by letter to the currently effective FEMA map that establishes that a building or land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- (4) **“LETTER OF MAP AMENDMENT OUT AS SHOWN (LOMA-OAS).”** an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
- (5) **“LETTER OF MAP REVISION (LOMR).”** an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- (6) **“LETTER OF MAP REVISION BASED ON FILL (LOMR-F).”** FEMA’s modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

**“LOWEST ADJACENT GRADE.”** the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**“LOWEST FLOOR.”** (for floodplain management purposes) the lowest elevation described among the following:

- (1) The lowest floor of a building.
- (2) The basement floor.
- (3) The garage floor if the garage is connected to the building.
- (4) The first floor of a structure elevated on pilings or pillars.
- (5) The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
  - a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.

- b. At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.

(6) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

**“MANUFACTURED HOME.”** a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**“MANUFACTURED HOME PARK OR SUBDIVISION.”** a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**“MITIGATION.”** sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

**“NATURAL GRADE.”** (for floodplain management purposes) the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

**“NEW CONSTRUCTION.”** (for floodplain management purposes) any structure for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**“NEW MANUFACTURED HOME PARK OR SUBDIVISION.”** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

**“NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).”** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**“OBSTRUCTION.”** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**“ONE-PERCENT ANNUAL CHANCE FLOOD.”** the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See “Regulatory Flood”.

**“PHYSICAL MAP REVISION (PMR).”** an official republication of a community’s FEMA map to effect changes to base (one percent (1%) annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or

improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**“PREFABRICATED BUILDING.”** a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

**“PRINCIPALLY ABOVE GROUND.”** that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**“RECREATIONAL VEHICLE.”** a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck;
- (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

**“REGULATORY FLOOD.”** the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in §158.049(C)(2). The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**“REPETITIVE LOSS.”** flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

**“RIVERINE.”** relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**“SPECIAL FLOOD HAZARD AREA (SFHA).”** synonymous with “areas of special flood hazard” and floodplain, those lands within the jurisdiction of the city subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, as Zones A, AE, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

**“SOLID WASTE DISPOSAL FACILITY.”** any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

**“START OF CONSTRUCTION.”** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a

foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**“STRUCTURE.”** a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

**“SUBSTANTIAL DAMAGE.”** damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**“SUBSTANTIAL IMPROVEMENT.”** any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

**“VARIANCE.”** a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.

**“VIOLATION.”** the failure of a structure or other development to be fully compliant with this ordinance.

**“WALLED AND ROOFED.”** a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

**“WATERCOURSE.”** a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

## (C) General Provisions

### (1) Lands to Which This Ordinance Applies

This ordinance shall apply to all areas of special flood hazard (SFHAs) within the zoning jurisdiction of the City of Huntington, Indiana as identified in §158.049(C)(2), including any additional areas of special flood hazard annexed by the City of Huntington, Indiana.

### (2) Basis for Establishing the Areas of Special Flood Hazard

- (a) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of Huntington, delineated as an "AE Zone" on the Huntington County, Indiana and Incorporated Areas Flood Insurance Rate Map dated June 2, 2015 shall be determined from the one-percent (1%) annual chance flood profiles in the Flood Insurance Study of Huntington County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated June 2, 2015 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be

delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone", the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.

- (b) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of Huntington, delineated as an "A Zone" on the Huntington County, Indiana and Incorporated Areas Flood Insurance Rate Map, dated June 2, 2015, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- (c) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- (d) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

### (3) Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard. Upon payment in accordance with §158.107(G), a Floodplain Development Permit shall be valid for a period not exceeding two (2) years from the date of issuance.

### (4) Compliance

- (a) No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations.
- (b) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (c) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(6) Discrepancy between Mapped Floodplain and Actual Ground Elevations

- (a) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.
- (b) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (c) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

(7) Interpretation

In the interpretation and application of this ordinance all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(8) Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the City of Huntington, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance, or any administrative decision made lawfully thereunder.

(9) Penalties for Violation

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of Huntington. All violations shall be punishable in accordance with §158.202.

- (a) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (b) The City of Huntington Community Development and Redevelopment Department shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (c) Nothing herein shall prevent the city from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(D) Administration

(1) Designation of Administrator

The Common Council of the City of Huntington hereby appoints the Director of Community Development and Redevelopment to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

(2) Floodplain Development Permit and Certification Requirements

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Application Stage.

- 1. A description of the proposed development;
- 2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;

3. A legal description of the property site;
4. For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;
5. A site development plan showing existing and proposed development locations and existing and proposed land grades;
6. A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met;
7. Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater;
8. Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AE. Elevation should be in NAVD 88;
9. Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed;
10. Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;
11. Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;
12. Plans showing how any proposed structure will be anchored to resist flotation or collapse;
13. Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88;
14. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. (See §158.049(D)(3)(h) and §158.049(D)(5) for additional information.)



15. Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(b) Construction Stage.

1. Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator shall review the elevation certificate. Any deficiencies detected during the review shall be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(c) Finished Construction.

1. Upon completion of construction of an elevated structure or structure constructed on fill, an elevation certificate which depicts the "as-built" lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.

2. Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.

3. Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by the same.

(3) Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

(a) Enforce the provisions of this ordinance.

(b) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.

- (c) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (d) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- (e) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (f) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- (g) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
  1. Verify and document the market value of the pre-damaged or pre-improved structure;
  2. Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;
  3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage; and
  4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in §158.049(E) of this ordinance are required.
- (h) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.

- (i) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to §158.049(E)(1)(a), §158.049(E)(1)(c) and §158.049(E)(1)(d) of this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- (j) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if §158.049(D)(3)(i) is applicable.
- (k) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (l) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with §158.049(D)(2).
- (m) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with §158.049(D)(2).
- (n) Make on-site inspections of projects in accordance with §158.049(D)(4).
- (o) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
- (p) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- (q) Provide information, testimony, or other evidence as needed during variance hearings.
- (r) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with §158.049(D)(4).
- (s) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance in accordance with §158.049(D)(4).
- (t) Coordinate map maintenance activities and associated FEMA follow-up in accordance with §158.049(D)(5).

- (u) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (v) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(4) Administrative Procedures

(a) Inspections of Work in Progress. As the work pursuant to a permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(b) Stop Work Orders.

1. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
2. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(c) Revocation of Permits.

1. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
2. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

(d) Floodplain Management Records.

1. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and

documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.

2. These records shall be available for public inspection within the Department at the Huntington City Building located at 300 Cherry Street, Huntington, IN 46750.

(e) Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(5) Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Huntington's flood maps, studies and other data identified in §158.049(C)(2) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(a) Requirement to Submit New Technical Data

1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

- a. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
- b. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
- c. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.

2. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal

should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

3. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
4. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(b) Right to Submit New Technical Data

1. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Huntington and may be submitted to FEMA at any time.

(c) Annexation / Detachment

1. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Huntington have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Huntington County, Indiana and Incorporated Areas Flood Insurance Rate Map accurately represent the City of Huntington boundaries, include within such notification a copy of a map of the City of Huntington suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Huntington has assumed or relinquished floodplain management regulatory authority.

(6) Variance Procedures

- (a) The City of Huntington Board of Zoning Appeals (the board) as established by the Common Council shall hear and decide appeals and requests for variances from requirements of this ordinance.
- (b) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Huntington County Circuit or Superior Courts.
- (c) In considering such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

1. the danger to life and property due to flooding or erosion damage;
  2. the danger that materials may be swept onto other lands to the injury of others;
  3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. the importance of the services provided by the proposed facility to the community;
  5. the necessity to the facility of a waterfront location, where applicable;
  6. the compatibility of the proposed use with existing and anticipated development;
  7. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  8. the safety of access to the property in times of flood for ordinary and emergency vehicles;
  9. the expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
  10. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (d) A written report addressing each of the above factors shall be submitted with the application for a variance by the applicant.
- (e) Variances from the provisions of this ordinance shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
1. A showing of good and sufficient cause.
  2. A determination that failure to grant the variance would result in exceptional hardship as defined in §158.049(B).

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (f) No variance for a residential use within a floodway subject to §158.049(E)(1)(a), §158.049(E)(1)(c)1 or §158.049(E)(1)(d) of this ordinance may be granted.
  - (g) Any variance granted in a floodway subject to §158.049(E)(1)(a), §158.049(E)(1)(c) or §158.049(E)(1)(d) will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - (h) Variances to the Provisions for Flood Hazard Reduction of §158.049(E) may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
  - (i) Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
  - (j) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
  - (k) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (l) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
  - (m) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
  - (n) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

(E) Provisions for Flood Hazard Reduction



(1) Floodplain Status Standards

(a) Floodways (Riverine)

Located within SFHAs, established in §158.094(C)(2) are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (IC 14-28-1) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

1. If the site is in a regulatory floodway as established in §158.094(C)(2) the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).
2. No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.
3. The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.
4. In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of §158.094(D)(5)(a). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
5. In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

6. For all projects involving channel modifications or fill (including levees) the city shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(b) Fringe (Riverine)

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.

(c) SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)

1. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one percent (1%) annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

2. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one percent (1%) annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.

(d) SFHAs not Identified on a Map

1. If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area

upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

2. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one percent (1%) annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
3. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.

## (2) General Standards

In all areas of special flood hazard, the following provisions are required:

- (a) All new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (b) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- (c) New construction and substantial improvements must incorporate methods and practices that minimize flood damage;
- (d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;
- (e) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

- (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (g) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (h) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance;
- (i) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres;
- (j) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (k) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3’ horizontal to 1’ vertical.
- (l) Non-conversion agreements shall be required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters. The non-conversion agreement shall run with the property, be binding upon subsequent owners and recorded in the chain of title by the owner in the office of the Recorder of Huntington County, Indiana. Properties covered by such agreements shall be subject to periodic inspection by the City to verify compliance.
- (m) Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard; and
- (n) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure
  1. The excavation shall take place in the same floodplain on the same property on which the authorized fill or structure is located, provided sufficient space exists. If sufficient space does not exist on the same property, the excavation shall take place in the same floodplain no further than 1,000’ from the site of the authorized fill or structure, provided authorization/permission has been granted by the owners of any property where the excavation is proposed.

2. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it shall not be refilled.
3. The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by floodwater.
4. The excavation shall be sufficiently stabilized and compacted to remain firm and resist erosion.
5. A restrictive covenant which states the approved compensatory cut area (excavation) shall not be altered without approval from the Floodplain Administrator shall be executed and recorded in the County Recorder's Office that runs with the property.
6. The fill or structure shall not obstruct a drainage way leading to the floodplain.
7. The grading around the excavation shall be such that the excavated area is accessible to the regulatory floodwater.
8. The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement. When a structure is placed on fill it shall follow additional requirements of §158.049(E)(3)(b)4 and §158.049(E)(3)(c)4.
9. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

(3) Specific Standards

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in §158.049(C)(2), the following provisions are required:

- (a) Building Protection Requirement.

In addition to the general standards described in §158.049(E)(2), structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

1. Construction or placement of a residential structure;
  2. Construction or placement of a non-residential structure;
  3. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes;
  4. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost);
  5. Installing a manufactured home on a new site or a new manufactured home on an existing site;
  6. Installing a travel trailer or recreational vehicle on a site for more than 180 days;
  7. Reconstruction or repairs made to a repetitive loss structure; and
  8. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.
- (b) Residential Construction (excluding manufactured homes).
1. New construction or substantial improvement of any residential structures shall meet provisions described in §158.049(E)(1) and applicable general standards described in §158.049(E)(2).
  2. In Zone A and Zone AE, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of §158.049(E)(3)(b)3. Should fill be used to elevate a structure, the standards of §158.049(E)(3)(b)4 must be met.
  3. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:

- a. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
    - (i) Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);
    - (ii) The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
    - (iii) If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
    - (iv) If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG;
    - (v) Doors and windows do not qualify as openings;
    - (vi) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
    - (vii) Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
  - b. The floor of such enclosed area must be at or above grade on at least one side.
4. A residential structure may be constructed on fill in accordance with the following:
- a. Fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;
  - b. Fill shall extend 15 feet beyond the foundation of the structure before sloping below the BFE;

- c. Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;
  - d. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties;
  - e. Fill shall be composed of clean granular or earthen material.
5. A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(c) Non-Residential Construction.

1. New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in §158.049(E)(1) and applicable general standards described in §158.049(E)(2).
2. In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of §158.049(E)(3)(c)3. Should fill be used to elevate a structure, the standards of §158.049(E)(3)(c)4 must be met.
3. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
  - a. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
    - (i) Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);



- (ii) The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
  - (iii) Doors and windows do not qualify as openings;
  - (iv) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
  - (v) Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- b. The floor of such enclosed area must be at or above grade on at least one side.
  - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
4. A nonresidential structure may be constructed on fill in accordance with the following:
- a. Shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;
  - b. Shall extend 15 feet beyond the foundation of the structure before sloping below the BFE;
  - c. Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;
  - d. Shall not adversely affect the flow of surface drainage from or onto neighboring properties;
  - e. Shall be composed of clean granular or earthen material.
5. A nonresidential structure may be floodproofed in accordance with the following:
- a. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.

- b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
6. A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.
- (d) Manufactured Homes and Recreational Vehicles.

- 1. These requirements apply to all manufactured homes to be placed on a site in the SFHA:
  - a. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - b. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in §158.049(E)(3)(b)3.
  - c. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- 2. Recreational vehicles placed on a site shall either:
  - a. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
  - b. Meet the requirements for “manufactured homes” as stated earlier in this section.

(e) Accessory Structures

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- 1. Shall have a floor area of 400 square feet or less;

2. Use shall be limited to parking of vehicles and limited storage;
3. Shall not be used for human habitation;
4. Shall be constructed of flood resistant materials;
5. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
6. Shall be firmly anchored to prevent flotation;
7. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG;
8. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in §158.049(E)(3)(c)3 and,
9. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

(f) Free-Standing Pavilions, Gazebos, Decks, Carports, and Similar Development.

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

1. Shall have open sides (having not more than one rigid wall);
2. Shall be anchored to prevent flotation or lateral movement;
3. Shall be constructed of flood resistant materials below the FPG;
4. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG;
5. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a pavilion, gazebo, carport, or similar open-sided development.

- (g) Above Ground Gas or Liquid Storage Tanks.

Within SFHAs, all newly placed or replacement aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in §158.049(E)(3)(c).

#### (4) Standards for Subdivision and Other New Developments

- (a) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) In all areas of special flood hazard where base flood elevation data area not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.
- (e) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (f) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- (g) Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

#### (5) Standards for Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

## AIRPORT HEIGHT RESTRICTIONS

### **SECTION 158.050 AIRPORT HEIGHT RESTRICTION OVERLAY DISTRICT**

It is the intent of this subchapter to regulate the height of a structure erected or constructed which could create an obstruction and endanger the lives and property of users of the Huntington Municipal Airport. This district would allow the erection or construction of a structure permitted in accordance with the underlying zoning district provided the height of the structure does not exceed the maximum established for the district.

### **SECTION 158.051 DEFINITIONS**

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

Airport - Means Huntington Municipal Airport.

Airport Elevation - 806 feet above mean sea level.

Approach Surface - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 158.052 of this Ordinance. The perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, Transitional, Horizontal, and Conical Zones - These zones are set forth in Section 158.052 of this Ordinance.

Board of Aviation Commissioners - A board appointed by the City of Huntington as required by I.C. 8-22-2-1 et. seq.

Conical Surface - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Department - The Community Development and Redevelopment Department

Hazard to Air Navigation - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height - For the purpose of determining height limits within the Airport Height Restrictions Overlay District, the datum shall be mean sea level elevation unless otherwise specified.

Height Permit - A permit issued by the City/County Planning Department and required by Section 158.056 for lands located in the Airport Height Restriction Overlay District, and in addition to any other applicable building permit requirements found elsewhere in this Code.

Height Variance - A variance granted by the Board of Zoning Appeals after a public hearing and required by Section 158.056 for structures to be built in excess of the applicable height limitations on land located within the Airport Height Restriction Overlay District.

Horizontal Surface - A horizontal plane which is 956 feet above mean sea level (150 feet above the established airport elevation of 806 feet above mean sea level) the perimeter of which coincides with the perimeter of the horizontal zone.

Larger Than Utility Runway - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

Nonprecision Instrument Runway - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction - Any structure or other object, including a mobile object, which exceeds a limiting height set forth in Section 158.053 of this Ordinance.

Person - An individual, corporation, firm, partnership, association, organization, or group acting as a unit.

Primary Surface - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 158.052 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

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

Structure - Anything constructed or erected, the use of which required permanent location on the ground or attached to something having a permanent location on the ground.

Transitional Surfaces - These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

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

Visual Runway - A runway intended solely for the operation of aircraft using visual approach procedures.

## **SECTION 158.052        ZONES**

In order to carry out the provisions of this Subchapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces shown on that certain Huntington Municipal Airport Height Restriction Overlay District Zoning Map which is made a part hereof. An area located in more than one of these zones is considered to be only in the zone with the more restrictive height limitation. These zones are hereby established and defined as follows:

- A. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (At the adoption of this Ordinance, this is the current classification of a proposed runway running generally in a north-northwest to south southeastern direction.)

- B. Utility Runway Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- C. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- D. Runway Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (At the adoption of this Ordinance, this is the current classification of Runway 9 running in a generally east to west direction.)
- E. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- F. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
- G. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- H. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

**SECTION 158.053      HEIGHT LIMITATIONS**

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained in any zone created by this subchapter to a height in excess of the applicable height limitation herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- A. Utility Runway Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- B. Utility Runway Nonprecision Instrument Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- C. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

- D. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- E. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- F. Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above airport elevation which is 806 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
- G. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 956 feet above mean sea level.
- H. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- I. Excepted Height Limitation - Nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure to a height up to 50 feet above the surface of the land, and where land is located below the approach or transitional surfaces.

**SECTION 158.054 USE RESTRICTIONS**

Notwithstanding any other provisions of this Code, no one may within any zone established by this chapter create electrical interference with navigational signals or radio communication between the Airport aircraft, make it difficult for pilots to distinguish between airport lights and other lights, cause glare in the eyes of pilots using the Airport, impair visibility in the vicinity of the Airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use or using the Airport.

**SECTION 158.055 NONCONFORMING STRUCTURES**

- A. Regulations Not Retroactive - The regulations prescribed in this Subchapter shall not be construed to require the removal, lowering, or other change or alteration of any structure not conforming to the regulations as the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming structure. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was granted all necessary and appropriate permits from regulatory authorities and was begun prior to the effective date of this Ordinance, and is diligently pursued.
- B. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure is hereby required to permit the installation, operation, and maintenance thereon



of such markers and lights as shall be deemed necessary by The Board of Aviation Commissioners to indicate its presence, at the expense of the City of Huntington.

## **SECTION 158.056      PERMITS**

- A. Future uses. No structure shall be erected, enlarged or established in excess of the applicable height limitation set forth in § 158.053(l) in any zone created under this subchapter unless a height permit has been applied for and granted by the Department. Each application for a height permit shall indicate the purpose for which the height permit is desired, with sufficient particularity to allow the Department to determine whether the resulting structure conforms to the regulations herein prescribed. If such determination is in the affirmative, the height permit shall be granted. No height permit shall be granted if the structure's proposed height is inconsistent with the provisions of this subchapter, unless a height variance has been approved in accordance with division (E) below.
- B. Height permits. Applications for height permits required by this section shall be submitted to the Department on forms published for that purpose. The Department shall promptly notify the Board of Aviation Commissioners or its designee of any and all applications for height permits filed under this section for the purpose of obtaining technical advice concerning the aeronautical effects that the proposed structure will have on air traffic and safety. The Board shall have ten days after notification in which to review and comment on the height permit application.
- C. Existing Uses - No Height Permit shall be granted that would allow the establishment or creation of an obstruction or allow a nonconforming use or structure to become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or than it was when the application for a Height Permit is made.
- D. Nonconforming Uses Abandoned or Destroyed - Whenever a nonconforming structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no Height Permit shall be granted that would allow such structure to be repaired, rebuilt, or reconstructed in a manner which exceeds the applicable height limit, without first obtaining a Height Variance.
- E. Height variances. Any person desiring to erect or increase the height of any structure, or use property not in accordance with the regulations prescribed in the subchapter, may apply to the Board of Zoning Appeals for a height variance from such regulations. This application is to be made at the Department office. The Department shall promptly notify the Board of Aviation Commissioners or its designee of any and all height variances filed under this section for the purpose of obtaining technical advice concerning the aeronautical effects that the proposed structure will have on air traffic and safety. This notification shall be at least ten days prior to any hearing by the Board of Zoning Appeals. The application for height variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such height variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this section. If the Board of Aviation Commissioners, or its designee, does not respond within a reasonable amount of time prior to the hearing by the Board of Zoning Appeals, the Board of Zoning Appeals may act on its own to grant or deny the height variance application.
- F. Obstruction Marking and Lighting - Any Height Permit or Height Variance granted may, if such action is deemed advisable to effectuate the purpose of this Subchapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to install, operate, and maintain, at the

owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals, this condition may be modified to require the owner to allow the City of Huntington, at its own expense, to install, operate, and maintain the necessary markings and lights.

**SECTION 158.057 ENFORCEMENT**

It shall be the duty of the Department to administer and enforce the regulations prescribed herein. Applications for height permits and height variances required by this subchapter shall be submitted to the Department on forms published for that purpose. Board of Aviation Commissioners, or their appointed designee, shall act as a technical advisor to the Board on any request for a height permit or height variance regarding this section.

**SECTION 158.058 CONFLICTING REGULATIONS**

Where there exists a conflict between any of the regulations or limitations prescribed in this Subchapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures and the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

**SECTION 158.059 INDIANA HIGH STRUCTURE SAFETY ACT: FEDERAL AND STATE LAWS**

- A. If any provision of this Subchapter conflicts with the Indiana High Structure Safety Act (I.C. 8-21-10-1 et. seq.), as it is now enacted or hereafter amended, the more restrictive provision controls.
- B. Compliance with this Subchapter does not relieve any person or entity from its obligation to comply with federal or state laws, which may or may not be more restrictive; nor relieve any person or entity from its obligation to obtain any studies or permits required by federal or state law.

## MANUFACTURED HOUSING IN RESIDENTIAL DISTRICTS

### SECTION 158.060 INTENTION OF SUBCHAPTER

It is the intent of this subchapter to encourage provision of alternative modest income housing in general residential areas by permitting the use of certain manufactured homes, as defined in 158.061, in all districts in which dwellings constructed on-site are subject to the requirements set forth herein to assure acceptable similarity in exterior appearance between the manufactured homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent or nearby lots in the same district.

### SECTION 158.061 DEFINITIONS

Expando Room - An expandable manufactured housing unit.

Manufactured Home - A dwelling unit constructed after January 1, 1981, in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards (42 U.S.C. 5401 et seq.) of Indiana Public Law 360, Acts of 1971, which is of at least 950 square feet of occupied space and is installed on a permanent foundation and perimeter wall. Its pitched roof and siding are of materials customarily used for site-constructed dwellings.

Manufactured Home Type I - See Manufactured Home.

Manufactured Home Type II - See Mobile Home

Manufactured Housing Construction and Safety Standards Code - Title IV of the 1974 Housing and Community Development Act (42 U.S.C. 5401 et seq.), as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted there under, which include H.U.D. approved information supplied by the home manufacturer, and regulations and interpretations of the code by the Indiana Fire Prevention and Building Safety Council.

Mobile Home - A transportable structure built prior to June 15, 1976, the effective date for the federal Mobile Home Construction and Safety Act of 1974, larger than 500 square feet and designed to be used as a year-round residential dwelling.

Modular Home - A home that is constructed of pre-made parts and unit modules and then transported from the factory to the building site. These modules are then anchored to a permanent foundation and conform to all applicable building codes.

Occupied Space - The total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to garages, patios, and porches. (from Public Law 312).

Permanent Foundation - Any structural system transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil. (from IC 22-12-1-1 et seq. Fire Prevention and Building Safety Council provisions).

Permanent Perimeter Wall - An approved non-load bearing perimeter structural system composed of continuous solid or mortared masonry wall having the appearance of a permanent load bearing foundation characteristic of site-constructed homes. It shall be designed to support the loads imposed and shall extend below the established frost line.

Public Law 360, Acts of 1971 - Enabling legislation requiring the Fire Prevention and Building Safety Council to adopt rules and regulations for the construction, repair, or maintenance of factory-constructed one- or two-family residential dwellings.

Residential Code, Indiana - The mandatory statewide building code adopted by the Fire Prevention and Building Safety Commission for one- and two-family residential dwellings.

Residential Design Manufactured Dwelling - A dwelling unit, built in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards or Indiana Public Law 360, Acts of 1971, which is of at least 400 square feet of occupied space. It may or may not be installed on a permanent foundation or perimeter wall. Its pitched roof and siding are of materials customarily used for site-constructed homes.

Standard Design Manufactured Dwelling - A dwelling unit, built in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards or Indiana Public Law 360, Acts of 1971, which is at least 400 square feet of occupied space. It may or may not be installed on a permanent foundation or perimeter wall. Its roofing or sidings are not of materials customarily used for site-constructed homes.

**SECTION 158.062 PERMITTED PLACEMENT: SPECIAL EXCEPTION**

- A. The establishment, location, and use of manufactured homes as scattered-site residences shall be permitted in any zone permitting installation of a dwelling unit subject to requirements and limitations applying generally to the residential use in the district and provided those homes shall meet the following requirements and limitations:
1. The home shall meet all requirements applicable to single-family dwellings and possess all necessary improvement location, building, and occupancy permits and other certifications required by the code;
  2. The home shall be larger than 950 square feet of occupied space, or meet the minimum square footage requirements for the appropriate zone. No home shall be less than 23 feet in width, not including expando room;
  3. The home shall be attached and anchored to a permanent foundation in conformance with the regulations in the Indiana Residential Code, Indiana Standards for the Installation of Manufactured Homes, and with the manufacturer's installation specifications;
  4. The home shall be covered with an approved exterior material, customarily used on site-built residential dwellings. The material shall extend over the top of the permanent perimeter wall. The following siding materials are approved for usage on manufactured homes:
    - a. Residential horizontal aluminum lap siding
    - b. Residential horizontal vinyl lap siding
    - c. Residential horizontal wood lap siding
    - d. Stucco siding

- e. Brick or stone
- 5. The home shall have a roof composed of a material customarily used on site-built residential dwellings. The roof shall have a minimum pitch of two in 12 or greater. The following roofing materials are approved for usage on manufactured homes:
  - a. Asbestos shingles
  - b. Fiberglass shingles
  - c. Wood shake shingles
  - d. Asphalt shingles
  - e. Tile materials
- 6. Exterior steps shall be permanent in nature, as is customarily used with site-built residential dwellings; and
- 7. To ensure with proper drainage of storm water, the home shall be equipped with adequate gutters and downspouts, capable of carrying off normal rainfall.
- B. Manufactured homes not meeting the terms of division (A) above, and mobile homes, shall be permitted within the city only after being granted a special exception from the City Board of Zoning Appeals.

**SECTION 158.063      STRUCTURAL ALTERATIONS**

Due to its integral design, any structural alteration or modification of a manufactured or mobile home after it is placed on the site must be approved by the Director.

**SECTION 158.064      REMOVAL OF HOME UPON VIOLATION; METHOD OF REMOVAL**

- A. Subject to removal. A home, sited upon property in violation of this subchapter, shall be subject to removal from that property. However, the home owner must be given a reasonable opportunity to bring the property into compliance before action for removal may be taken. If action finally is taken by the Plan Commission or the Director to bring compliance, the expenses involved may be made a lien against the property.
- B. Removal method. The Plan Commission or the Director may institute a suit in the court having jurisdiction for injunction relief to cause the violation to be prevented, abated, or removed.

**SECTION 158.065      APPEALS**

Any action to review any order, requirement, decision, or determination made by the Plan Commission, Board of Zoning Appeals, or Director, shall be filed with the Board of Zoning Appeals. The appeal must specify the grounds of the appeal and must be filed within a time and in a form as is prescribed by the Board of Zoning Appeals rules of procedure.

## PROFESSIONAL OFFICE DISTRICT

### SECTION 158.066      PROFESSIONAL OFFICE DISTRICT

The following sections of this subchapter are the standards and requirements to be utilized when reviewing a request for a rezoning to POD and for site plan approval of a proposed development in the POD district.

- A. Buildings and accessory structures shall occupy no more than forty percent (40%) of any lot.
- B. Pervious perimeter landscaping:
  - 1. A landscape strip with a minimum width of five (5) feet shall be provided parallel and immediately adjacent to all front property lines.
  - 2. A landscape strip with a minimum width of five (5) feet shall also be provided parallel and immediately adjacent to all property lines abutting residential districts. The landscaping strip shall include a hedge with a minimum height of three (3) feet.
  - 3. One (1) tree for each thirty (30) feet lineal feet of property shall be planted in the required perimeter landscape strip. Credit may be claimed for existing trees.
- C. Dumpster areas shall be screened by landscaping or fencing on at least three sides, with the open side facing the pavement area where access to the dumpster is gained.
- D. All utilities including sewer, water, telephone, television, cable, and electrical systems shall be installed underground. Appurtenances to these systems which require above ground installation must be effectively screened.

## **BUSINESS PARK DISTRICT**

### **SECTION 158.073 BUSINESS PARK DISTRICT**

The following sections of this subchapter are the standards and requirements to be utilized when reviewing a request for a rezoning to BP and for site plan approval of a proposed development in the BP district.

- A. A development must be a minimum of ten (10) acres in size in order to request BP zoning designation.
- B. All utilities including sewer, water, telephone, television, cable, and electrical systems shall be installed underground. Appurtenances to these systems which require above ground installation must be effectively screened.
- C. Dumpster areas shall be screened by landscaping or fencing on at least three sides, with the open side facing the pavement area where access to the dumpster is gained.

## INDUSTRIAL PARK DISTRICT

### **SECTION 158.074      INDUSTRIAL PARK DISTRICT**

The following sections of this subchapter are the standards and requirements to be utilized when reviewing a request for a rezoning to IP and for site plan approval of a proposed development in the IP district.

- A. A development must be a minimum of fifteen (15) acres in size in order to request IP zoning designation.
- B. The outside storage of all equipment, goods, or materials shall be contained within an enclosed structure or privacy fence of sufficient height to effectively achieve screening.



## **ADVISORY BOARD OF ZONING APPEALS**

### **SECTION 158.075      RULES OF PROCEDURE**

All actions of the Plan Commission and Board of Zoning Appeals are governed by their respective Rules of Procedure of the Commission and Board adopted pursuant to IC 36-7-4-401 and IC 36-7-4-916, and Indiana Law.

### **SECTION 158.076      EXCEPTIONS AND USES**

- A. The Board of Zoning Appeals may only consider those applications for Special Exception, Special Use, Contingent Use, or Conditional Use (hereinafter collectively referred to as exceptions and uses) listed in the Schedule of Uses for the applicable zoning district for the lot upon which the exception or use is proposed.
- B. A proposed exception or use can only be granted by the Board of Zoning Appeals upon an affirmative finding on the following criteria:
  - 1. The proposed exception or use will not be injurious to or alter the normal and orderly development of, permitted uses of property within the general vicinity;
  - 2. The proposed exception or use is serviced by adequate access roads, ingress and egress points, and traffic flow and control mechanisms.
  - 3. The establishment, maintenance, or operation of the proposed exception or use will not be injurious to the public health, safety, or general welfare; and
  - 4. The proposed exception or use is not inconsistent with the Comprehensive Plan.
- C. The Board of Zoning Appeals may impose reasonable conditions as a part of its approval
- D. The Board of Zoning Appeals, when reviewing a request for a Special Exception or Variance, may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of the parcel. Written commitments shall be prepared and executed in accordance with the Rules of Procedure of the Board.
- E. The Board of Zoning Appeals may amend or remove a condition of approval only upon an affirmative finding on the following criteria:
  - 1. There has been a change in circumstances regarding the subject property, and/or property within the general vicinity, since the date condition was placed, that makes the condition no longer appropriate or necessary.
  - 2. There has been a change in circumstances, since the date the condition was placed, regarding the ordinances, rules, or regulations, as they now apply to the subject property.

**SECTION 158.077      ZONING ANNEXED LAND**

- A. The zoning district classification for land annexed shall be specifically described in the ordinance annexing said land and depicted in the proposed zoning map required under IC 36-4-3.
- B. Uses that were legal upon the effective date of annexation shall be considered non-conforming uses, unless explicitly allowed by the zoning district to which they are assigned.
- C. Any variance or special exception previously approved by the zoning authority having jurisdiction prior to annexation shall be honored by the City upon annexation.

## AGRICULTURE

### SECTION 158.080 LIVESTOCK OPERATIONS

#### A. Purpose and Intent

1. It is the purpose and intent of this Section to provide for livestock operations within the jurisdiction of the Huntington City Plan Commission. Two classes of livestock operations have been established based upon the intensity of use. Accordingly, minimum standards have been established for each class of livestock operation in order to assure the compatibility of livestock operations with other uses permitted in the applicable district. These minimum standards are intended to provide protection for existing residential, commercial, industrial, and public buildings from being encroached upon by new livestock operations, as well as protecting approved livestock operations from being encroached upon by new residential, commercial, industrial, and public buildings.
2. The provisions of this Section shall apply to the raising of livestock, including those authorized by meeting certain acreage requirements under §91; however it shall not apply to certain domestic animals having been issued a specific permit under §91.

#### B. Application for Livestock Operation

1. An application for livestock operation approval shall be submitted on a form provided by the Department.
2. The application form shall be submitted to the Department along with the following information:
  - a. A site plan of the property:
    1. The boundaries, dimensions, and total gross acreage of the property;
    2. The location and setback from property lines of all existing and proposed buildings, confinement areas, pits, ponds, lagoons, holding tanks, and wells;
    3. The location of existing easements, watercourses, county drains, well and septic tank locations; and other important physical features on the property;
    4. The location of the property in relation to the surrounding road system;
  - b. A site plan showing the boundaries of the property and all existing dwelling units, commercial buildings, and subdivision lots within one thousand (1,000) feet of the property.
  - c. A site plan showing the boundaries of the property and the land application areas for waste, including dimensions and total acreage.
  - d. A waste management plan, which shall include a proposal for the storage and disposal of waste.
  - e. Any additional information requested by the Department, which relates to compliance review.

C. Application review. Application for a livestock operation shall be reviewed by the Director as follows:

1. Classification as a minor livestock operation or intensive livestock operation shall be made based upon the definitions described in Section 158.080 (D) and (E).
2. Compliance with the provisions of Section 158.080 (F).
3. If the provisions of Section 158.080 are adhered to, and if all required and requested information is submitted, the Executive Director can issue a minor livestock operation permit for those operations classified as minor, or intensive livestock operation permit for those operations classified as intensive.
4. The standards set forth in Section 158.080 (F) shall be incorporated as minimum conditions of approval.

D. Minor Livestock Operations

Minor livestock operations shall be defined as a tract of land or tracts of adjacent lands with no more than the following numbers of livestock per acre based on the tracts(s) of land upon which the livestock and livestock buildings are located:

1. 10 finishing hogs; or
2. 4 sows; or
3. 1 cow; or
4. 25 nursery pigs (under 40 lbs.); or
5. 2 feeder cattle; or
6. 2 heifers (replacement); or
7. 100 turkeys; or
8. 150 laying hens; or
9. 150 pullets; or
10. 150 broilers; or
11. 5 veal calves; or
12. 5 sheep; or
13. 5 goats; or
14. 4 horses; or
15. Limits for other livestock not enumerated herein shall be determined by the Director based upon type or size of livestock.

#### E. Intensive Livestock Operation

1. Intensive livestock operations shall be defined as any proposed livestock operation or an expansion of an existing livestock operation exceeding the per acre limits set forth in Section 158.080 (D) above or any one operation regardless of acreage which has livestock numbers exceeding the following:
  - a. 400 sows; or
  - b. 1,000 finishing hogs; or
  - c. 1,000 nursery pigs; or
  - d. 300 cattle; or
  - e. 30,000 poultry; or
  - f. 500 veal calves
2. Where a livestock operation involves less than 400 sows, 1,000 finishing hogs, 1,000 nursery pigs, 300 cattle, 30,000 poultry, 500 veal calves, but there are more than one kind of species of animals, the number of animals in the operation shall be divided by 400 in the case of sows, 1,000 in the case of finishing hogs or nursery pigs, 500 in the case of veal calves, 300 in the case of cattle and 30,000 in the case of poultry and the resulting percentages shall be added together. If the total of such percentages equals or exceeds one hundred, then the operation is an intensive livestock operation as defined herein. If the total of such percentages is less than one hundred and complies with the acreage restrictions of Section 158.080 (D) above, then the operation is a minor livestock operation.

#### F. General Provisions

1. The following setbacks shall be maintained for a minor livestock operation building, pen, or confined feeding area:
  - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
  - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
  - c. Twenty-five (25) feet from any side or rear property line; and
  - d. One hundred (100) feet from any water well, which services a dwelling unit.
2. The following setbacks shall be maintained for an intensive livestock operation building, pen, or confined feeding area:
  - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
  - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways, if four (4)

lanes wide;

- c. Twenty-five (25) feet from any side or rear property line;
  - d. One hundred (100) feet from any water well, which services a dwelling unit;
  - e. Five hundred (500) feet from any dwelling unit other than the dwelling unit(s) on the property;
  - f. One thousand (1,000) feet from any commercial, industrial, or public building; and
3. The following setbacks shall be maintained for any pit, pond, lagoon, or structure open to the sky or not completely contained in a holding tank with cover, and utilized for storage of livestock waste:
- a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
  - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
  - c. Fifty (50) feet from any side or rear property line;
  - d. One hundred (100) feet from any water well, which services a dwelling unit;
  - e. One thousand (1,000) feet from any dwelling unit other than the dwelling unit(s) on the property;
  - f. One thousand (1,000) feet from any commercial, industrial, or public building;
4. The following setbacks shall be maintained for any holding tank with cover which is separate from a livestock building and which is utilized for the storage of livestock waste:
- a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
  - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
  - c. Fifty (50) feet from any side or rear property line; and
  - d. One hundred (100) feet from any water well which services a dwelling unit.
5. The following setbacks shall be maintained for the land application of waste:
- a. One hundred (100) feet from any water well, which services a dwelling unit;
  - b. One hundred (100) feet from any dwelling unit other than the dwelling unit(s) on the property;
  - c. One hundred (100) feet from any commercial, industrial, or public building; and

6. All new dwelling units, commercial buildings, industrial buildings, and public buildings shall adhere to the separation distances listed in Section 1020(F) (2), (3) and (5) above.
7. A dwelling unit, commercial building, industrial building, or public building is considered existing on a site under the following circumstances:
  - a. If the building exists on the property; or
  - b. If a building permit, which remains valid, is issued; or
  - c. If the lot upon which the building is to be constructed is in a recorded subdivision or part of an approved and valid preliminary plat.
8. A pit, pond, or lagoon is considered existing on a site if an Improvement Location Permit, which remains valid, has been issued; or, the pit, pond, or lagoon exists on the property.
9. Waste Disposal
  - a. Sufficient land shall be available for disposing of the waste from the operation. The following minimum land area shall be available for disposal of waste:
    1. One acre for each 45-nursery pigs;
    2. One acre for each 11 sows;
    3. One acre for each 20 finishing hogs;
    4. One acre for each 5-feeder cattle;
    5. One acre for each 6 heifers (replacement);
    6. One acre for each 300 turkeys, ducks, geese
    7. One acre for each 15 veal calves;
    8. One acre for each 3 cows;
    9. One acre for each 450 laying hens;
    10. One acre for each 590 pullets;
    11. One acre for each 690 broilers;
    12. One acre for each 10 horses;
    13. One acre for each 20 sheep or goats.
    14. Limits for other livestock not enumerated herein shall be determined by the Director by comparing body weight and animal wastes with those which are enumerated.
  - b. 50% of the application land must be within two miles of the livestock operation building and must either be owned by the owner of the livestock operation or if not, the owner of the livestock operation must present and submit to the Director an agreement granting permission to apply wastes on the area. This agreement shall be signed by the livestock operator and the owner of the property which is available for waste application, and must be duly notarized to be acceptable.
  - c. A current, valid agreement must be on file at all times with the Department. If an agreement is not on file, the livestock operator is limited to the maximum number of livestock per acre based upon land owned by the owner of the livestock operation.
  - d. The handling and application process of waste from the livestock operations must meet all additional requirements and standards set forth by the Indiana Department of Environmental

Management (IDEM) and Environmental Protection Agency (EPA).

G. Requirements For Existing Livestock Operations

1. An approval of a minor or intensive livestock operation, which was granted in accordance with Ordinance 1980-2, which became effective June 1, 1980, Huntington County, and was in compliance with the requirements of Huntington County Ordinance 1980-2 upon the adoption of this Ordinance, shall remain valid. Any increase in the number of livestock which would change the status of the operation from minor to intensive; or any new construction of buildings, confined feeding areas, pits, ponds, lagoons, or holding tanks; or, any existing application lands or application lands established after the effective date of this Ordinance shall require compliance with the regulations of this Ordinance.
2. It is the responsibility of the livestock operator to assure all information on file with the Department regarding their operation is accurate.

H. Access to property/inspections. The Director may inspect any building, structure, or property at any reasonable time for the purpose of administering and enforcing the provisions of this section. Inspection of the building(s), structure(s), or property shall be for the purpose of verifying number of livestock; setback distances; location of building(s), structure(s), and waste storage facilities; and location of waste application lands.

I. Appeals

1. Any livestock operation determination made by the Director may be appealed to the City Board of Zoning Appeals in accordance with applicable law.



## **ADMINISTRATION**

### **SECTION 158.106      IMPROVEMENT LOCATION PERMIT**

- A. Authority - The Director is hereby authorized to issue Improvement Location Permits within the jurisdiction of the Huntington City Plan Commission.
  
- B. Improvement Location Permit Required - No building or other structure shall be erected, constructed, enlarged, moved, or located on property without an improvement location permit (hereinafter referred to as permit) issued by the Director. Permits shall be issued only in conformity with the provisions of the Zoning Code.
  
- C. Contents Of Application For Improvement Location Permit - The following information shall be filed with the Department as a prerequisite for obtaining a permit:
  - 1. A completed application form provided by the Department and signed by the owner or applicant attesting to the truth and exactness of all information referenced thereon, and all other required information
  
  - 2. A site plan of the property upon which, or to which, the building or structure shall be constructed, reconstructed, erected, moved, or altered showing all property line dimensions; streets, alleys, and other right-of-way; recorded easements; utility and telephone lines (both overhead or underground); legal drains or open ditches; existing and proposed buildings and structures; all setback lines; and height, width, and depth of the proposed building or structure.
  
  - 3. Legal description of the property.
  
  - 4. If applicable, a copy of the approved septic permit or authorization by the Huntington County Health Department to utilize an existing septic system.
  
  - 5. If applicable, a copy of the approved driveway approach permits from the City Engineer.
  
  - 6. If applicable, authorization by the Huntington County Surveyors Office that the building or structure is to be located outside an established easement for a county drain or ditch.
  
  - 7. Any additional information requested by the Department, which relates to compliance review.
  
- D. Approval Of Improvement Location Permit
  - 1. The Department shall endeavor to review and make a determination on all permit applications within 5 business days of filing. The review period may extend beyond said time where circumstances require additional review.
  
  - 2. Upon receipt of the completed permit application, payment of required permit fees, and if the proposed project otherwise conforms to applicable law, an improvement location permit shall be issued in the name of the applicant. The applicant shall then be provided a permit card authorizing the work to commence. The permit card shall be prominently posted on the property at all times and protected from the elements.

3. A permit, when issued, shall be for the activity described in the application and no deviation shall be made from the activity so described without the approval of the Director.
- E. Expiration of the improvement location permit. If the work described in the permit has not fully completed within two years from the date of issuance, the permit shall expire. Further work shall not proceed unless a new permit is obtained.
- F. Failure to Obtain an Improvement Location Permit\_- Failure to obtain a permit shall be a violation of this Ordinance, and the City may impose penalties as set forth in Section 158.999.

**SECTION 158.107: SCHEDULE OF FEES, CHARGES AND EXPENSES**

- A. All applicants for improvement location permits shall, prior to the issuance of such permit, pay fees to the Department in such amounts as are specified within the City of Huntington Building Code.
- B. All Applications for sign permits shall, prior to the issuance of such permits, pay fees to the Department in the amounts specified below:

On-premise permanent signs	\$10.00
On-premise temporary signs	\$10.00
Off-premise permanent signs	\$50.00
Off-premise temporary signs	\$25.00
Billboards	\$100.00
Mobile & temporary billboards	\$25.00

- C. The filing fees for petitions required to be reviewed by the City of Huntington Plan Commission or the City of Huntington Board of Zoning Appeals shall, prior to the filing deadline established for the subsequent meeting, pay fees to the Department in such amounts as are specified below:

1. Board of Zoning Appeals:

Variance of Use Application	\$150.00
Variance from Development Standards Application	\$150.00
Special Exception Application	\$150.00
Appeal Application – decision by Hearing Officer	\$25.00
Amendment to previous BZA approval	\$150.00

2. Plan Commission:

Amendment of Official Zoning Map (excluding EUD)	\$250.00
Amendment of Official Zoning Map (EUD only)	\$500.00
Text Amendment to Zoning Ordinance	\$50.00

- D. If more than one (1) petition is filed by the applicant for the same property, and if each petition is to be reviewed by the Board of Zoning Appeals on the same hearing date, the filing fee for the second and each additional petition shall be twenty-five dollars (\$25.00).
- E. For improvements to real property for which a Development Plan is required, the applicant shall pay the following fees to the Department:

Construction of Multi-Family Dwelling	\$10.00 per unit Minimum of \$150.00
Commercial or Industrial Development Plan Review	\$150.00
Parking Lot (new or expansion) not in conjunction with building construction or expansion	\$150.00

- F. For amendments to an approved Development Plan, the applicant shall pay the following fees to the Department:

If the amendment constitutes a minor deviation	\$25.00
If the amendment constitutes a substantial deviation	\$100.00

G. All applications for floodplain permits shall, prior to the issuance of such permits, pay the following fees to the Department:

In conjunction with a building permit	\$0.00
Not in conjunction with a building permit	\$25.00

H. No part of any filing fee paid pursuant to this section shall be refunded to the applicant.

**SECTION 158.108      COMPLETIONS OF EXISTING BUILDINGS**

- A. Nothing in this section shall require any changes in the plans, construction, or intended use of any building or structure, the construction of which was legally authorized upon the effective date of this chapter and which construction is being diligently continued pursuant to the authority provided, however, that authorized construction shall be completed within two years from the effective date of this chapter.
- B. Nothing herein shall prevent the Plan Director from declaring any wall or other structural part of a building unsafe and requiring its reconstruction.

**SECTION 158.109      WRITTEN COMMITMENTS**

- A. The Commission or Common Council may require or permit the owner of real property to make a written commitment pursuant to IC 36-7-4-1015 concerning the use or development of a property when reviewing a proposal to amend the zone map.
  - 1. If the commitment is required by the Commission, or if the owner of the real property permits the written commitment to be made prior to a recommendation being made by the Commission, the commitment shall be included in the certified recommendation to the Common Council. The Common Council may approve, amend, and then approve, or disapprove the recommendation of the Commission. If the recommendation is disapproved, the commitment shall be void.
  - 2. The written commitment shall be:
    - a. Prepared by the Commission or Common Council;
    - b. Signed by the property owner(s) in the manner provided on the approved form of commitment;
    - c. Signed by the President Pro Tempore of the Common Council; and
    - d. Recorded in the County Recorder's office. The commitment shall be recorded prior to the final approval of the Common Council.
  - 3. A written commitment regarding a proposal to amend the zone maps takes effect upon the final approval of the proposal by the Common Council.

- B. The terms of a commitment made as part of a proposal to amend the zone map can only be modified in accordance with IC 36-7-4-1015.
  - 1. An application for modification of a commitment may be filed by the owner of the property, which is subject to the commitment.
  - 2. The Commission shall hold a public hearing on the request after notice is provided in the same manner as in the initial request to those interested parties who were notified of the initial proposal. At the conclusion of the hearing, the Commission shall make a recommendation on the modified commitment to the Common Council. The Common Council may approve, amend and then approve, or disapprove the recommendation. If the modified commitment is disapproved, the modified commitment shall be void.
  - 3. A written modification is effective upon final approval of all necessary administrative or legislative bodies.
  
- C. The Commission may require or permit the owner of real property to make a written commitment concerning the use or development of a property when reviewing a proposal for Development Plan approval.
  - 1. The commitment shall be:
    - a. Prepared by the Commission;
    - b. Signed by the property owner(s) in the manner provided on the approved form of commitment;
    - c. Signed by the President of the Commission; and
    - d. Recorded in the Huntington County Recorder's Office. The commitment shall be recorded prior to the final approval of the Commission.
  - 2. A written commitment made regarding a Development Plan takes effect upon final approval of the Development Plan.
  
- D. The terms of a commitment made as part of a proposal for development plan approval can only be modified in accordance with IC 36-7-4-1015.
  - 1. An application for modification of a commitment may be filed by the owner of the property which is subject to the commitment.
  - 2. The Commission shall hold a public hearing on the request after notice is provided in the same manner as in the initial request to those interested parties who were notified of the initial proposal. At the conclusion of the hearing, the Commission shall approve, amend and then approve, or disapprove the

modified commitment. If the modified commitment is disapproved, the modified commitment shall be void.

3. A written modification is effective upon final approval of the Commission.

E. A commitment made under this Section automatically terminates if:

1. The proposal to amend the zone map is not approved by the Common Council;

2. The Development Plan is not approved;

3. The zone map applicable to the parcel upon which the commitment is made is changed; or

4. The parcel upon which the commitment is made is designated as a planned unit development district.

F. A commitment may be enforced by the Director, Commission, or Common Council in any manner provided by law or equity.

## DEVELOPMENT PLAN

### SECTION 158.110 DEVELOPMENT PLAN REQUIRED

#### A. Development Plan Required

1. Development Plan Review is required for all development that occurs in all zoning districts throughout the City of Huntington, except for the following:
  - a. Single-Family Dwellings
  - b. Two-Family Dwellings
  - c. Home Occupation Type I
  - d. Residential Accessory Structures meeting the following criteria:
    - i. Structure is less than 1,000 square feet; and
    - ii. All current and proposed structures create less than fifty percent (50%) impervious surface on the subject property
  - e. Agricultural uses and accessory structures meeting the following criteria:
    - i. Property is zoned agriculture;
    - ii. Structures is less than 2,500 square feet on properties less than five (5) acre;
    - iii. Structure is less than 5,000 square feet on properties greater than five (5) acres; and
    - iv. All current and proposed structures create less than fifty percent (50%) Impervious surface on the subject property
2. Development Plan Review is required for any change in use of any building or land if:
  - a. Expansion or enlargement of the building is to occur;
  - b. Additional parking requirements are needed; or
  - c. Grading or other movement of soil and land is to occur
3. No improvement Location Permit or Building Permit shall be issued until a Required Development Plan Review is approved.

**SECTION 158.111            APPLICATIONS FOR DEVELOPMENT PLAN**

- A. The following items shall be submitted or paid to the Department to initiate review of a Development Plan:
1. Completed application form signed by the property owner.
  2. Payment of filing fees as required by Section 158.106(B) (3).
  3. Site plan, drawn on one or more sheets of paper measuring not more than twenty-four (24) inches by thirty-six (36) inches, drawn to a scale as large as practical, and including the following information:
    - a. Scale, date, north arrow, vicinity map, and title of the project;
    - b. The boundaries, dimensions, and total gross acreage of the property;
    - c. The relationship of the development to the surrounding road system, including the width of the adjacent roadways;
    - d. The location and dimensions of existing manmade features such as roads, utilities, and structures, with indication as to which are to be removed, relocated, or altered;
    - e. The location and dimensions of existing easements, watercourses, county drains, water and sewer lines, well and septic tank locations, and other existing important physical features in and adjoining the development;
    - f. The location and delineation of existing trees (12" in diameter or larger), with indication as to which trees will be removed. Wooded areas shall be indicated as such on the plan;
    - g. Identification of existing land use and zoning of the development site and adjacent properties;
    - h. A layout of the proposed building site including the following site data:
      - i. Finished floor elevations
      - ii. Common open areas
      - iii. Landscaping and buffer areas
      - iv. Internal circulation patterns including off-street parking and loading facilities
      - v. Total project density (residential)
      - vi. Building area
      - vii. Percentage of impervious and near impervious surface coverage
      - viii. Percentage of open space areas
      - ix. The shape, size, location, and height of all structures
    - i. Size, location, and orientation of proposed signs;



- j. Proposed lighting of the premises;
  - k. Name and address of developers/property owners; and
    - i. Size and location of site utilities, including: sanitary sewer or septic, storm sewer, water, gas, and electricity.
4. Stormwater Management Plan, which shall include the following information:
- a. Contours of the site with elevations of the pre-developed site and proposed finished grade
  - b. Size of the watershed
  - c. Method of calculation of stormwater run-off
  - d. Location, size, and capacity of drainage facilities serving the development
  - e. Proposal for the management of stormwater
5. Traffic Management Plan, which shall include the following information:
- a. Traffic generation analysis for proposed use
  - b. Distribution and assignment of traffic
  - c. Adjacent roadway/intersection improvements
  - d. Future right-of-way dedications
  - e. Additional roadway needs
6. A description of the nature and intensity of proposed uses in the development.
7. Statement of capacity of sanitary sewer system to service the development.
8. Legal description of the property proposed for development.
- B. Upon written request from the applicant, the Commission may waive the requirement to submit one or more of the items listed in Section 158.111(A)(3)(4) or (5). In order for the Commission to waive a requirement, the Commission shall determine that:
- 1. The item is not necessary for the Commission to adequately review the Development Plan; and

2. The item is not necessary for the Commission to determine if the development requirements in Section 158.112 are satisfied.
- C. One copy of the application form and five (5) copies of the site plan, stormwater management plan, and traffic impact analysis shall be submitted at the time the application is filed.

**SECTION 158.112 DEVELOPMENT REQUIREMENTS**

- A. The following development requirements shall be satisfied before approval of a Development Plan:
1. Compatibility of development with surrounding land uses.
  2. Availability of potable water, sanitary sewer or septic system, and other utilities necessary to operate and maintain the development in a manner that protects the health, safety, and welfare of the general public.
  3. Availability of adequate stormwater detention facilities.
  4. Compliance with the following development standards, as required in the applicable zoning district:
    - a. Lot size
    - b. Lot frontage
    - c. Building setbacks
    - d. Building coverage
    - e. Building separation
    - f. Parking
    - g. Landscaping
    - h. Signs
    - i. Building height
    - j. Building width
    - k. Any other development standard in the applicable zoning district
  5. Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community by ensuring that:

- a. The design and location of proposed street and highway access points minimize safety hazards and congestion;
- b. The capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development; and
- c. The entrances, streets, and internal traffic circulation facilities in the Development Plan are compatible with existing and planned streets and adjacent developments.

#### **SECTION 158.113 DEVELOPMENT PLAN REVIEW**

- A. Development Plans shall be reviewed by the Development Plan Committee in accordance with the Plan Commission Rules of Procedure.
- B. The Department shall establish a meeting date, time, and place for the Development Plan Committee to review the Development Plan.
- C. The Department may prepare a staff report, and may make a recommendation to the Committee.
- D. Notice to interested parties shall be completed in accordance with the Plan Commission Rules of Procedure.
- E. The Development Plan Committee may receive evidence from any person regarding the Development Plan.
- F. The Development Plan Committee shall review a Development Plan to determine if the Development Plan:
  1. Satisfies the development requirements specified in Section 158.112; and
  2. Is consistent with the Comprehensive Plan.
- G. The Development Plan Committee shall make written findings concerning each decision to approve or disapprove a Development Plan. The chairperson of the Development Plan Committee, or the presiding officer in the absence of the chairperson, shall sign the written findings of the Committee.

#### **SECTION 158.114 WAIVERS OF DEVELOPMENT REQUIREMENTS**

- A. The Development Plan Committee may waive the following development requirements under the specific conditions listed:
  1. Section 158.112(A)(3) - Availability of stormwater detention facilities, if the development will have a negligible effect on increasing stormwater run-off or altering the flow of stormwater run-off
  2. Section 158.112(A) (5) - Traffic Management Plan, if the development will have a negligible effect on traffic generation, traffic congestion, or traffic safety.

#### **SECTION 158.115 CONDITIONS OF APPROVAL**

- A. Prior to approval of a Development Plan, or amendment to an approved Development Plan, the Development Plan Committee, or Director in the case of an amended Development Plan that does not

require Development Plan Committee approval, may:

1. Impose conditions on the approval of a Development Plan if the conditions are reasonably necessary to satisfy the development requirements specified in Section 158.112;
2. Require the submittal of a bond or written assurance that guarantees the timely completion of a proposed public improvement in the proposed development and is in a form reasonably satisfactory to the Committee; and
3. Permit or require the owner of real property to make a written commitment concerning the use or development of the property. Such commitment shall be completed in accordance with Section 158.109, the Plan Commission Rules of Procedure, and applicable law.

**SECTION 158.116      AMENDMENTS TO AN APPROVED DEVELOPMENT PLAN**

- A. A property owner may file a written application with the Director to amend an approved Development Plan on property they own.
- B. The Director shall review modifications to the Development Plan and determine compliance with applicable land use and development standards and requirements and also determine whether a substantial deviation from the approved Development Plan has occurred.
  1. A substantial deviation shall include, but is not limited to, a:
    - a. Modification of building location which would affect setback distances or buffering from adjacent residential property;
    - b. Relocation of an access point to the site;
    - c. Major redesign of the parking and vehicular use area; or
    - d. Fundamental change in the overall concept of the development.
- C. If the Director determines that the proposed modification is inconsistent with applicable land use or development standards and requirements, or that a substantial deviation exists, the modified Development Plan must be resubmitted and approved by the Development Plan Committee in the same manner as an original Development Plan and prior to the issuance of an Improvement Location Permit.
- D. If the modified plan is consistent with applicable land use and development standards and requirements, and if no substantial deviation exists, the Director may approve the amended development plan. Interested parties who were notified of the initial development plan application, and those who presented evidence to, or appeared at the meeting of, the Plan Commission at the time of the original development plan approval, shall be provided notice of the decision to approve the amended development plan. The notice shall be mailed no later than two working days after the date of approval of the amended development plan, and shall allow 10 calendar days from the date of approval to file an appeal of the decision. If an appeal is filed,

it shall be reviewed in accordance with §158.119 and applicable law.

- E. The Director shall make written findings concerning each decision to approve or disapprove an amendment to a Development Plan. The Director shall sign the written findings.

**SECTION 158.117      DURATION OF APPROVAL OF DEVELOPMENT PLAN**

- A. Development plan approval expires two years from the date of approval.
- B. Upon request, and after good cause is shown, the time period within which an Improvement Location Permit must be issued may be extended by the Development Plan Committee for a time period not to exceed one (1) year.
- C. If the time period has expired without extension and without the issuance of such permit, no improvement location permit shall be issued until a new application for development plan is approved.

**SECTION 158.118      LIMITATION OF AUTHORITY**

- A. A Development Plan authorizes only the development set forth in such approved plans and applications. Development different from the approved Development Plan, including any approved modifications thereto, shall constitute a violation of the Zoning Code.
- B. Approval of the Development Plan shall in no way exempt the applicant from strict observation of applicable provisions of the Zoning Code and all other applicable law.

**SECTION 158.119      APPEALS**

- A. Any decision or determination of the Development Plan Committee or of the Director may be appealed to the Plan Commission. The following procedures shall apply:
  - 1. Appeal shall be filed with the Department on a form provided by the Department within 10 days of the date of issuance of the written findings and decision.
  - 2. Notice shall be provided to interested parties in accordance with the City Plan Commission Rules of Procedure.
  - 3. The Commission shall review the appeal request at its next regular meeting, provided the appeal is filed at least ten (10) days prior to the meeting. If this requirement cannot be met, the appeal shall be scheduled for the next following Commission meeting.
  - 4. The Commission may affirm, rescind, or modify the decision of the Director or Development Plan Committee. Only those items designated in the appeal request shall be heard and decided by the Commission.
  - 5. No filing fee is required for an appeal.

- B. The decision by the Commission on an appeal request is a final decision of the Commission that may be reviewed as provided in IC 36-7-4-1016.

## VIOLATIONS AND PENALTIES

### **SECTION 158.201      VIOLATIONS**

- A. No person, firm, or corporation, whether as owner, lessee, sub-lessee or occupant shall erect, construct, reconstruct, enlarge, expand, alter, move, convert, use, occupy, or maintain any building or structure in the City, or cause or permit the same to exist or to be done, contrary to or in violation of any condition imposed by the Department, Hearing Officer, Plan Commission, or Board of Zoning Appeals, any provision of this Chapter, or any other applicable law.
- B. A structure erected, raised or converted, or land or premises used in violation of this chapter, is a common nuisance, and the owner of the structure, land, or premises is liable for maintaining a common nuisance.
- C. In case any sign or advertising display shall be installed, erected, maintained, or constructed in violation of any of the provisions of 158.030.01 through 158.030.19, the Plan Director shall notify, in writing, the owner of lessee thereof either to alter the sign so as to comply with this code and to secure the necessary permit thereof, or forthwith to remove the sign. If the order is not complied with within ten days after mailing the notice, the Plan Director may remove the sign at the expense of the sign owner, lessee thereof, or the property owner.

### **SECTION 158.202      PENALTIES**

- A. The following fines shall be imposed for each violation of this Ordinance unless specified below:

<b><u>Offense</u></b>	<b><u>Penalty</u></b>
First Offense	\$250.00
Second Offense	\$500.00
Third Offense	\$1,000.00
Subsequent Offenses	\$1,000.00

- B. The following fines shall be imposed for each right-of-way signage violation of this Ordinance:

<b><u>Offense</u></b>	<b><u>Penalty</u></b>
First Offense	\$25.00
Second Offense	\$50.00
Third Offense	\$100.00
Subsequent Offenses	\$100.00 & confiscation

An offense count shall be determined based upon the number of individual offenses accumulated within the calendar year (January 1<sup>st</sup> – December 31<sup>st</sup>). All penalties shall be assessed against the individual person or agent responsible for the sign, in cases where no single individual is clearly identifiable by the sign; the penalty shall be assessed against the firm, entity, or corporation responsible for the sign.

- C. In addition to the monetary penalties outlined above, the following remedies may also be pursued by the enforcement official:

1. Stop Work Order. The designated enforcement official or this Ordinance shall have the authority to issue an order for work on any building, structure, lot or development parcel to be stopped, if the work is in violation of this Ordinance.
  2. Injunctive Relief, abatement. The designated enforcement official of this Ordinance may bring action for an injunction in the Circuit or Superior Court of Huntington County, Indiana to enjoin any violator, and/or cause the violation to be resolved, removed, or abated.
  3. Injunctive Relief, removal. The designated enforcement official of this Ordinance may bring action in the Circuit or Superior Court of Huntington County, Indiana for a mandatory injunction requiring the removal of a building, structure, sign, fence, and/or addition/enlargement to an existing structure erected or constructed in violation of this Ordinance.
  4. Payment of Costs. Any person, firm, or corporation, whether as owner, lessee, sub-lessee or occupant found to be in violation of this Ordinance, as a result of any enforcement action, shall be responsible to pay all applicable attorney fees, court costs, and other costs and expenses incurred in connection with the prosecution of the enforcement action.
- D. The fines and penalties provided for in this section shall be in addition to all other remedies and penalties provided for herein and by law.
- E. Except where otherwise provided, every day any violation continues shall constitute a separate violation.
- F. Should any work which requires a permit commence prior to the permit being issued, a penalty of twice the regular permit fee shall be assessed.

#### **SECTION 158.203      ENFORCEMENT OFFICIALS**

- A. The Director is herein authorized as duly designated enforcement official. The Plan Director has the authority to appoint officers to enforce the provisions of this code. These officers have the authority to issue necessary citations, to issue tickets and to remove unlawful signs
- B. The Plan Director may adopt and prescribe suitable rules and regulations, consistent with the provisions of this code, concerning the form and contents of all applications for the various kinds of permits herein required, and covering any other requirements for the applicant to protect the public safety and welfare.

#### **SECTION 158.999      PENALTIES**

Ordinance 8-C-93 moved the penalty section to 158.202; please refer to that section for penalty amounts. Ordinance 8-C-93 also moved the violations section to 158.201; please refer to that section for violation language.