

## CHAPTER 154: ZONING

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***Editor's note:***

*The provisions concerning conditional uses were intentionally omitted from Ord. 93-59 and from this chapter, but are referenced here in recognition of certain conditional uses which are currently in existence and granted prior to the elimination of conditional uses by the City of Hobart.*



**GENERAL PROVISIONS**

**§ 154.001 ADOPTION.**

This section consists of Ord. 93-59, which adopted this chapter. The ordinance is not set out herein. Subsequent amendments to this chapter are identified by ordinance number and date adopted following the section added or modified. In addition, Ord. 2001-41 made technical corrections and provided consistency in punctuation, numbering, spacing, capitalization and formatting of this chapter, but made no substantive changes except as noted in specific sections by ordinance number and date adopted following the section added or modified. (Prior Code, § 24-1) (Ord. 93-59; Ord. 2001-41)

**§ 154.002 TITLE.**

This chapter shall be known and may be cited and referred to as the “Zoning Ordinance of the City of Hobart, Indiana”.  
(Prior Code, § 24-2) (Ord. 93-59; Ord. 2001-41)

**§ 154.003 PURPOSE AND INTENT.**

This chapter is adopted for the following purposes:

- (A) To promote the public health, safety, comfort, morals, convenience and general public welfare;
- (B) To protect the character and the stability of the residential, business and manufacturing areas within the city and to promote the orderly and beneficial development of the areas;
- (C) To provide adequate light, air, privacy and convenience of access to property;
- (D) To regulate the intensity of use of land and lot areas and to determine the area of open spaces surrounding buildings necessary to provide adequate light and air and to promote the public health;
- (E) To lessen or avoid congestion in the public streets;
- (F) To provide for the needs of industry, business and residence in future growth;
- (G) To promote healthful surroundings for family life in residential areas;
- (H) To fix reasonable standards to which buildings or structures shall conform therein;
- (I) To prohibit uses, buildings or structures which are incompatible with the character of development or the uses allowed within specified zoning districts;

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(J) To prevent additions to or alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder;

(K) To protect against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort and general welfare;

(L) To prevent the overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and bulk of buildings in relation to the land surrounding them;

(M) To conserve the taxable value of land and buildings throughout the city;

(N) To provide for the gradual elimination of non-conforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district; and

(O) To define and limit the powers and duties of the administrative officers and bodies as provided herein.  
(Prior Code, § 24-3) (Ord. 93-59; Ord. 2001-41)

**§ 154.004 ZONING DISTRICTS; ESTABLISHMENT AND APPLICATION.**

(A) *Zoning districts.*

(1) In order to carry out the purposes and provisions of this chapter, the city is hereby divided into zoning districts, as shown on the official zoning map which, together with all explanatory matters thereon, is hereby adopted by reference and made a part of this chapter:

A-1	Agricultural District.
R-1	Single-Family (Large Lot) Residence District.
R-2	Single-Family (Small Lot) Residence District.
R-3	Single to Four-Family Residence District.
R-4	Multiple-Family Residence District.
OS-1 / OS-2	Office Service District.
B-1	Neighborhood Business District.
B-2	Central Business District.
B-3	Highway Oriented Business District.
PBP	Planned Business Park District.
M-1	Light Manufacturing District.
M-2	Heavy Manufacturing District.
F-1	Flood Plain District.
PUD	Planned Unit Development District.

(2) The official zoning map shall be identified by the signature of the Mayor attested by the city’s Clerk-Treasurer, and bearing the seal of the city under the following words: “This is to certify that this is the Official Zoning Map referred to in [§ 154.004](#) of the code of ordinances of the City of Hobart, State of Indiana”, together with the date of the adoption of this chapter.

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(3) If, in accordance with the provisions of this chapter and Chapter 174 of the Acts of 1947 as amended, changes are made in district boundaries or other matters portrayed on the official zoning map, the changes shall be entered on the official zoning map promptly after the amendment has been approved by the Common Council of the city.

(B) *Replacement of official zoning map.* In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature and number of changes and additions, the Common Council may, by resolution, adopt a new official zoning map which shall supercede the prior official zoning map. The new official zoning map shall be identified by the signature of the Mayor attested by the city's Clerk-Treasurer and bearing the seal of the city under the following words: "This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted September 15, 1971, as part of Ord. 1031 and as was readopted on December 3, 1975, as part of Ord. 1197 and again on December 21, 1977, and again on October 6, 1993, as part of Ord. 93-59 of the City of Hobart, Indiana". (Prior Code, § 24-4) (Ord. 93-59; Ord. 2001-41)

### **§ 154.005 RULES OF INTERPRETATION OF DISTRICT BOUNDARIES.**

Whenever uncertainty exists with respect to the boundaries of the various districts as shown on the official zoning map, the following rules shall apply.

(A) Boundaries indicated as following center lines of streets, highways, alleys, platted lot lines or city limit lines, shall be construed to follow the lines.

(B) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(C) Boundaries indicated as approximately following the center lines of streams or rivers shall be construed to follow the center lines.

(D) Where a zoning district boundary line divides a platted lot of record which was in single ownership at the time of enactment of this chapter, the Board of Zoning Appeals may, upon petition, extend the zoning district boundary line to include the entire lot of record in 1 or the other of the zoning districts.

(E) In all other cases of interpretation of district boundaries not covered by the above regulations, final interpretation shall be made by the Board of Zoning Appeals. (Prior Code, § 24-5) (Ord. 93-59; Ord. 2001-41)

### **§ 154.006 GENERAL PROVISIONS AND SUPPLEMENTARY DISTRICT REGULATIONS.**

(A) *Interpretation and application.*

(1) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for promotion of the public health, safety, morals and welfare.

(2) Where the conditions imposed by any provisions of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than

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comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

(3) This chapter is not intended to abrogate any easement, covenant or any other private agreement; provided, that where the regulations of this chapter are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements, the requirements of this chapter shall govern.

### (B) *Scope of regulations.*

(1) Except as may otherwise be provided herein, all buildings erected hereafter, all uses of land or buildings established hereafter, all structural alteration or relocation of existing buildings occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which the buildings, uses or land shall be located.

(2) However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter; and provided that, construction is begun within 1 year of the effective date and diligently prosecuted to completion, the building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further, may upon completion be occupied under a certificate of occupancy by the use for which originally designated subject thereafter to the provisions hereof.

(3) No building or structure shall hereafter be erected or altered:

- (a) To exceed the height or bulk of applicable district regulations;
- (b) To accommodate or house a greater number of families;
- (c) To occupy a greater percentage of lot area;
- (d) To have narrower or smaller yards; either front, rear or side;
- (e) To, in any other way, diminish yard requirements; and
- (f) To diminish, in any other way, the provisions of this chapter.

(C) *Zoning of annexed land.* All territory which may hereafter be annexed to the city shall be considered to be annexed as it is so zoned at the time of the annexation. All existing special or conditional use permits existing for any property to be annexed to the city shall be continued as conditional uses after annexation. Upon the annexation of any territory to the city, a plan for zoning the area annexed shall be forwarded to the Common Council by the Plan Commission.

(D) *Access to public street.* Every principal building hereafter erected shall be on a zoning lot or parcel of land which adjoins a public street or a permanent easement of access to a public street, the easement to be at least 20 feet wide unless a lesser width was duly established and recorded prior to the effective date of this chapter.

(E) *Number of buildings on a zoning lot.* Except in the case of planned developments, not

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more than 1 principle detached residential building shall be located on a zoning lot, nor shall a principal detached residential building be located on the same zoning lot with any other principal building.

### (F) *Accessory buildings.*

(1) *Time of construction.* No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

(2) *Percentage of rear yard occupied.* No accessory building or buildings shall occupy more than 40% of the area of a rear yard.

(3) *Height of accessory buildings in required rear yards.* No accessory building or portion thereof located in a required rear yard shall exceed 15 feet in height, or may be increased to twenty (20) feet in height where the exterior of the accessory structure match the exterior of the principal structure including, but not limited to: architecture style, material, color and roof or dormer pitch/design.

(Ord. 2006-08)

(4) *On reversed corner lots.* On a reversed corner lot in a residential district, no accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than the established building line. Further, in the above instance, no such accessory building shall be located within 5 feet of any part of a rear lot line which coincides with a side lot line or a portion thereof of property in an R-1, R-2, R-3 or R-4 district.

(5) *In zoning districts R-1, R-2, R-3 or R-4.* The summation of the building footprint of all accessory structures shall not exceed the building footprint of the principle structure, except that for residentially zoned lots larger than one (1) acre and less than three (3) acres, the summation of the building footprint of all accessory structures shall not exceed one and one half (1½) of the building footprint of the principle structure. For residentially zoned lots, larger than three (3) acres, the summation of the building footprint of all accessory structures shall not exceed twice the building footprint of the principle structure.

(Ord. 2008-17, § 1)

(6) *Accessory buildings.* No accessory building may be built or located on a recorded easement.

(7) *Number of accessory structures.* In R-1, R-2, R-3 or R-4 zoned lots of less than one (1) acre, accessory structures shall number no more than two (2), including attached garages, and the combined total shall not exceed either six tenths (0.6) times the building footprint of the principle structure or eight hundred sixty-four (864) square feet, whichever is larger.

(Ord. 94-66) (Ord. 2008-17, § 1)

(8) *Additional accessory structures.* One shed, playhouse, dog house and the like measuring less than 100 square feet shall not be counted as an accessory structure. Subsequent structures of any size shall be considered accessory.

### (G) *Bulk regulations.*

(1) *Continued conformity with bulk regulations.* The maintenance of yards, courts and other open space and minimum lot area legally required for a building shall be a continuing

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obligation of the owner of the building or of the property on which it is located as long as the building is in existence. Furthermore, no legally required yards, courts, other open space or minimum lot area allocated to the building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, court, other open space or minimum lot area requirements for any other building.

(2) *Division of zoning lots.* No zoning lot improved with a building or buildings shall hereafter be divided into 2 or more zoning lots; and no portion of any zoning lot which is improved with a building or buildings shall be sold, unless all zoning lots resulting from each sale and improved with a building or buildings shall conform with all bulk regulations of the zoning district in which the property is located. However, with respect to the resubdivision of improved lots in multiple-family residential districts, side yard requirements shall not apply between detached buildings.

(3) *Location of required open space.* All yards, courts and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.

(4) *Required yards for existing buildings.* No yards now or hereafter provided for a building existing on the effective date of this chapter shall subsequently be reduced below or further reduced below if already less than the minimum yard requirements of this chapter for equivalent new construction.

(5) *Permitted obstruction in required yards.* The following shall not be considered to be obstructions when located in the required yards specified:

(a) *In all yards.* Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over 4 feet above the average level of the adjoining ground, but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than 6 feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls provided, that in residential districts no fence or wall shall be located in the established front yard and no landscaped screen or hedge shall exceed 3 feet 6 inches in height if located in the front yard and no fence, landscaped screen, hedge or wall shall exceed 6 feet in height above the natural level of the adjoining ground if located in a side or rear yard. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence, screen, hedge or wall shall be approved by the Building Commissioner prior to the issuance of a building permit.

(b) *In front yards.* One story bay windows projecting 3 feet or less into the yard; and, overhanging eaves and gutters projecting 3 feet or less into the yard; open patios and permanently roofed-over porches projecting no more than 10 feet from the front of the structure, the porch or patio shall not be enclosed but rather shall remain open on all sides, the remaining distance from obstruction to the front property line shall not be less than 15 feet.

(Ord 2000-09; Ord. 2001-10)

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(c) *In rear yards.* Enclosed attached or detached off-street parking spaces; open off-street parking spaces; accessory sheds, tool rooms and similar buildings or structures for domestic or agricultural storage; balconies, breezeways and open porches; 1-story bay windows and overhanging eaves and gutters projecting 3 feet or less into the yard. No accessory building shall be nearer than 3 feet to the side lot line. No accessory building or use shall be nearer than 3 feet to the rear lot line.

(d) *In side yards.* Overhanging eaves and gutters projecting into the yard for a distance not exceeding 40% of the required yard width, but in no case exceeding 3 feet.

(H) *Performance standards.* The performance standards set forth in this chapter in the manufacturing districts as regards noise, odorous matter, vibrations, toxic or noxious matter, glare or heat, and fire and explosive hazards, shall also apply to residential and business districts.

(I) *Existing conditional uses.* Where a use is classified as a conditional use under this chapter and exists as a conditional or permitted use at the date of adoption of this chapter, it shall be without further action of the Common Council, the Zoning Administrator or the Board of Zoning Appeals, a legal use.

(J) *Location of City Police, City Court and Community Center Facilities.* Notwithstanding the provisions of this Chapter governing the permitted use of land in non-residential zoning classifications, it shall be a permitted use of land within any A-1, B-1, B-2, B-3, OS-1, PBP, M-1 or M-2 zoning district under this chapter to locate a City Police facility, City Court facility, or community center facility either alone in any building or portion of a building, or in combination with each other in a single building. The City or its designee shall submit plans for a proposed facility described above to the city plan commission for site plan review whenever any such facility is to be placed in a new location. In conducting such review, the developmental standards and regulations of the zoning classification for such location shall not apply to such plans, but the plan commission may impose development standards for the facility proposed which may include, but are not limited to, lot area, floor area, ratios of floor space to land space, areas in which structures may be built ("buildable area"), open space, setback lines and minimum yards, building separations, heights of structures, signs, off-street parking and loading space, design standards (including landscaping requirements), security features including fences, walls, and related features and phasing of development for the purposes of maintaining the utility and security of the facility for its intended purpose, and to foster the maintenance of attractive, healthful, efficient and stable living, shopping or working environments adjacent to the facility. (Prior Code, § 24-6) (Ord. 93-59; Ord. 2001-41; Ord. 2004-31, § 1; Ord. 2006-08, § 1) (Ord. 2010-04, § 2)

### § 154.007 DEFINITIONS.

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

#### ***ACCESSORY BUILDING OR USE.***

(1) One which:

(a) Is subordinate to and serves the principal building or principal use;

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(b) Is subordinate in area, extent or purpose to the principal building or principal use served;

(c) Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and

(d) Is located on the same zoning lot as the principal building or principal use served, with the single exception of the accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.

(2) An **ACCESSORY BUILDING OR USE** includes, but is not limited to, the following:

(a) A children's playhouse, garden house or private greenhouse;

(b) A garage, shed or building for domestic storage;

(c) Storage of goods used in or produced by manufacturing activities unless the storage is excluded by district regulations;

(d) The production, processing, cleaning, servicing, altering, testing, repair or storage of merchandise normally incidental to a retail service or business use conducted by the same ownership as the principal use. In a business district, all such activities shall conform with the performance standards for the M-1 manufacturing districts herein, applied at the boundaries of the lot on which the use is located;

(e) Off-street motor vehicle parking spaces or areas and loading facilities;

(f) Signs as permitted and as regulated in each district incorporated in this chapter; and

(g) Carports.

**ACTUAL CONSTRUCTION.** Work done which is beyond the preparation stage and into that stage where changes or additions are made permanent.

**ADMINISTRATOR.** The officer appointed by and/or delegated the responsibility for the administration of these regulations by the Planning Commission.

**ADULT ENTERTAINMENT FACILITY OR USE.** An "Adult Entertainment Facility of Use" is an establishment regulating entrance into a premises by a minimum age requirement, or where, minimum age or custodial consent is required to obtain goods or services.  
(Ord. 2008-17, § 1)

**ALLEY.** A public right-of-way not more than 30 feet wide which affords only a secondary means of access to abutting property.

**APARTMENT.** A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.



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**APPLICANT.** A fee simple owner of land, or the authorized agent thereof, who makes application to the Hobart Plan Commission for action by the Commission thereby affecting the land.

**ARTERIAL STREET.** Either a primary arterial or secondary arterial, as defined in this section.

**AUTOMOBILE LAUNDRY/CAR WASH.** A building or portion thereof where the principal activity is the washing of automobiles, including the use of chain conveyors, blowers and steam cleaning devices.

**AUTOMOBILE REPAIR, MAJOR.** An activity described as engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and overall painting of vehicles.

**AUTOMOBILE REPAIR, MINOR.** An activity described as the incidental replacement of parts and motor service to automobiles, but not including any operation specified under “automobile repair, major”.

**AUTOMOBILE SERVICE STATION OR FILLING STATION.** A place where gasoline and diesel fuel, stored only in underground tanks, and kerosene, lubricating oil or grease for operation of light trucks and automobiles, is offered for sale directly to the public on the premises. It may include the sale and provision of minor accessories and services for the vehicles, including washing of vehicles where no chain conveyor, blower or steam cleaning device is employed. Uses permissible at an automobile service station or filling station shall not include major automobile repair, welding unless incidental to minor repairs - i.e.: exhaust, storage of automobiles not in working condition, the sale of automobiles or trucks, or other work involving noise, glare, smoke, fumes or other characteristics to an extent greater than would normally be found in service stations. An **AUTOMOBILE SERVICE STATION OR FILLING STATION** is not a repair shop nor a body shop.

**AUTOMOBILE WRECKING YARD.** Any land, building or structure used for the open storage, keeping or abandonment of any worn out, cast off, inoperative, discarded or abandoned vehicle, automobile or parts thereof, which is not being restored to operation, including vehicles or automobiles without a valid current state registration and license plate issued to the vehicle or automobile, or to the occupant, owner, purchaser, lessor, lessee or tenant of the place; and including the wrecking of the motor vehicles or the parts thereof and any other goods or subchapters of salvage for the purpose of commercial sale.

**AWNING.** A roof-like cover, temporary in nature, which projects from the wall of a building and overhangs a public way or a required yard.

**BASEMENT.** A story partly underground, but having less than 1/2 its clear floor to ceiling height below finished grade. A **BASEMENT** should be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than 5 feet and the area is used for business or dwelling purposes.

**BED AND BREAKFAST INNS.** Establishments ranging from 4 to 20 guest rooms and may include restaurants that cater to the general public as well as to overnight guests. These are treated as commercial establishments.

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**BLOCK.** A tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad right-of-way, bulkhead lines, shore lines, waterways or corporate boundary lines of a city.

**BREWERY.** An industrial use which brews ales, beers, meads and or similar beverages on site and is the primary use. The brewing operation must maintain over 50% of the gross floor area. Brewpubs and tasting rooms are allowed as accessory uses to the brewery.  
(Ord. 2012-38, § 1(B))

**BREW PUB.** A commercial use which creates ales, beers, meads, wines, spirits, and/or similar beverages on site and serves those beverages on site. Brewpubs in a business district must maintain over 50% of the gross floor area for uses associated with a tavern/restaurant. Brewpub may include the shipping of beverages for consumption at other sites, but only if it is included on the zoning review form and meets the parking and loading requirements of this chapter.  
(Ord. 2012-38, § 1(A))

**BUFFER LANDSCAPING.** Any trees, shrubs, walls, fences, berms or related landscaping features required under this chapter or the subdivision regulations to be placed on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent property, for esthetic purposes, and/or for creating sound barriers and/or visual privacy.

**BUILDING.** Any structure designed, built or intended for the shelter, enclosure or protection of persons, animals, chattels or moveable property of any kind, and which is permanently affixed to the land.

**BUILDABLE AREA.** The portion of the lot remaining after required yards have been provided.

**BUILDING, COMPLETELY ENCLOSED.** A building separated on all sides from the adjacent open space or from other buildings or other structures by a permanent and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

**BUILDING COVERAGE.** The “building coverage” on a zoning lot is the proportion of the total area of such zoning lot occupied by any impervious surface, or area of all buildings/structures located thereon. Porches, breeze ways, pool houses, gazebos and other roofed structures shall be included in the determination of building coverage. Playground equipment, tree houses, playhouses for children shall not be included.  
(Ord. 2001-10) (Ord. 2008-17, § 1)

**BUILDING, DETACHED.** A building which does not connect to another building and is surrounded by open space on the same lot.

**BUILDING FOOTPRINT.** The “building footprint” is the square foot area of a building/structure measured from the exterior walls on a zoning lot.  
(Ord. 2008-17, § 1)

**BUILDING HEIGHT.** The vertical distance from the curb level, or its equivalent, opposite the center of the front of the building to the highest point of the exterior of the building.

**BUILDING LINE.** The line that establishes the minimum permitted distance on a lot

between the front line of a building and the street right-of-way line.

**BUILDING PERMIT** or **LOCATION IMPROVEMENT PERMIT**. A document issued to a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land.

**BUILDING, PRINCIPAL**. A building in which the principal use of a lot on which it is located is conducted.

**BUILDING, RESIDENTIAL**. A building which is arranged, designed or used for residential occupancy by 1 or more families or lodgers and which includes, but is not limited to the following:

- (1) One-family detached dwellings;
- (2) Two-family dwellings;
- (3) Multiple-family dwellings; and
- (4) A row of 1- or 2-family attached dwellings developed initially under single ownership or control.

**BULK**. The term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and includes the following:

- (1) Size and height of buildings;
- (2) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
- (3) Gross floor area of buildings in relation to lot area (floor area ratio); and
- (4) Amount of lot area per dwelling unit.

**BUSINESS**. Involves the purchase, sale or exchange of goods or services, or the maintenance for profit of offices or recreational or amusement enterprises.

**BUS TERMINAL; BUS DEPOT; BUS STATION**. Any place, building or portion thereof where intra-city buses make their major or only stop, whether the stop is off-street or on the public way adjacent thereto, for the purpose of loading or unloading passengers, baggage or freight, and also where minor repairs to the buses may be provided. The **BUS TERMINAL, BUS DEPOT** or **BUS STATION** may serve as a stop for inter-city buses for the purpose of loading or unloading passengers and baggage, but shall not be deemed to include the corner-to-corner pick-up and discharge service normally provided by inter-city buses.

**CAMPGROUND**. Any site, lot, field or tract of land under single ownership, or ownership of 2 or more people, designed with facilities for short-term occupancy by recreational vehicles and other camping equipment, but not including mobile homes.

**CELLAR**. A story partly or wholly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A **CELLAR** should not be considered in

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determining the permissible number of stories, nor shall it be considered as space to be used for living quarters.

**CEMETERY.** Any tract of land used for burying the dead such as a graveyard and includes any columbarium, crematory, mausoleum or mortuary operated in conjunction with and on the same tract as the cemetery.

**CITY COURT FACILITY.** A building or portion of a building which houses any office or courtroom under the jurisdiction or control of the City Judge of the City.  
(Ord. 2010-04, § 1)

**CITY POLICE FACILITY.** A building or portion of a building which houses a police station or sub-station of the City, or houses offices of the City Police Department.  
(Ord. 2010-04, § 1)

**CLINIC.** An establishment in which patients are admitted for medical or dental study or treatment and in which the services of at least 2 physicians and/or dentists are provided.

**CLUB OR LODGE, PRIVATE.** A non-profit association of persons who are bona fide members, electing a board of directors and paying annual dues, which owns, hires or leases a building or portion thereof, the use of the premises being restricted to members and their guests. It shall be permissible to serve food and beverages on the premises; provided that, adequate dining room service and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed in conjunction with the operation of a dining room established for the purpose of serving food and beverages though the beverages may be served in a separate room or rooms; provided further that, the sale of alcoholic beverages be in compliance with the applicable state, federal and municipal laws.

**CLUSTER HOUSING.** Developments in which the dwelling units are clustered close to their access streets or drives in order to permit aggregation of yard space into larger common recreational spaces.

**COLLECTOR STREET.** A street intended to move traffic from local streets to secondary arterials.

**COMMUNITY CENTER FACILITY.** A building or portion of a building which houses a program of the City, either directly or through a City-designated not-for-profit entity, to provide recreational, educational and social opportunities, to members of the public.  
(Ord. 2010-04, § 1)

**CONDOMINIUM.** Real estate lawfully subjected to the horizontal property law by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

**CURB LEVEL.** For any building, is the level of the established curb in front of the building measured at the center of the building. Where no curb exists and no curb elevation has been established, the city's Engineer shall establish curb level.

**DAY CARE CENTER.** Any place operated by a person, society, agency, corporation or institution, or any other group which receive for pay 3 or more children under 18 years of age for group care, without transfer or custody, for less than 24 hours per day.

**DESIGN GUIDELINES.** The City of Hobart Design Guidelines function to enhance the character of development in an area and provide the basis for decision making regarding new development and redevelopment in the City of Hobart. The application of the design guidelines can be subjective and allow for flexibility but compliance with the goal of the design guidelines, as outline, is expected.

(Ord. 2019-11)

**DISTILLERY.** An industrial use which distills spirits and or similar beverages on site and is the primary use. The distillery operation must maintain over 50% of the gross floor area. Brewpubs and tasting rooms are allowed as accessory uses to the distillery.

(Ord. 2012-38, § 1(C))

**DRIVE-IN.** An establishment selling foods, frozen desserts or beverages to customers, and the establishment being designed, intended or used for the consumption of the items on the premises inside of and outside of the building in which they were prepared.

**DUMP.** A lot or parcel of land used primarily for the disposal by abandonment, dumping, burial, burning or by any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, discarded vehicles or parts thereof or waste material of any kind.

**DWELLING.** A building or a portion thereof, (but not a motor home or camper), designed or used exclusively for residential occupancy, or permitted home occupations, including 1-family dwellings, 2-family dwellings and multiple-family dwellings, but not including hotels, motels and lodging rooms.

**DWELLING, ATTACHED.** One which is joined to another building at 1 or more sides by a common wall or walls.

**DWELLING, DETACHED.** One which is entirely surrounded by open space on the same lot.

**DWELLING, MULTIPLE-FAMILY.** A residential building with dwelling units designed for and occupied by 3 or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, ROW HOUSE.** Any 1 of 3 or more 1-family attached dwelling units in a continuous row or rows.

**DWELLING, SINGLE-FAMILY.** A detached residential dwelling unit designed for and occupied by 1 family only.

**DWELLING, 2-FAMILY.** A detached residential building with 2 dwelling units, designed for and occupied by not more than 2 families.

**DWELLING UNIT.** One room, or rooms connected together, constituting a separate independent housekeeping unit established for owner occupancy or for rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure. A **DWELLING UNIT** contains independent cooking, sleeping and toilet facilities.

**DWELLING UNIT, EFFICIENCY.** A dwelling unit consisting of 1 room exclusive of the bathroom, kitchen, hallway, closets or dining alcove directly off the principal room; provided, that, the dining alcove does not exceed 100 square feet in area.

**DWELLING UNIT, MOBILE HOME.** A detached residential dwelling designed for transportation after fabrication on streets or highways on its own wheels or on a flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit, complete and ready for occupancy except for minor and incidental unpacking and assembly operations. It shall be located in accordance with the provisions hereof. A travel trailer is not a mobile home.

**EASEMENT.** An authorized grant made by a property owner for use by another of any designated part of his or her property for a clearly specified purpose and officially recorded.

**ESTABLISHMENT, BUSINESS.** A separate place of business having the following 3 characteristics:

(1) The ownership and management of all operations conducted within the establishment is separate and distinct from the ownership and management of operations conducted within other establishments on the same or adjacent zoning lots;

(2) Direct public access to the “business establishment” is separate and distinct from direct access to any other such establishment; and

(3) There is no direct public access from within the establishment of any other such establishment.

**FAMILY.** Consists of 1 or more persons related by blood, marriage or adoption, or a group of not more than 5 persons who need not be related by blood, marriage or adoption (excluding servants), who are living together in a single dwelling unit and maintaining a common household conforming to all city and state health and housing codes.

**FLOOD HAZARD AREAS.** Consist of flood plains which have not been adequately protected from flooding caused by the regulatory flood, and are shown on the zoning map and/or the flood hazard or flood way-flood boundary maps of the Federal Insurance Administration or maps provided to the Plan Commission from the Indiana Natural Resources Commission.

**FLOOD PLAIN.** Consists of the area adjoining the river or stream which has been or may hereafter be covered by flood water from the regulatory flood.

**FLOOD PROTECTION GRADE.** The elevation of the lowest floor of a building, including the basement, which shall be 2 feet above the elevation of the regulatory flood.

**FLOOD WAY FRINGE.** The portion of the flood plain lying outside the flood way, which is inundated by the regulatory flood.

**FLOOR AREA.**

(1) For the purpose of determining the floor area ratio, the **FLOOR AREA** of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of party walls separating 2 buildings. The **FLOOR AREA** of a building shall include basement floor when more than 1/2 of

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the basement height is above the established curb level, elevator shafts and stairwells at each floor, floor space used for mechanical equipment (open or enclosed), located on the roof, penthouses, attic space having headroom of 7 feet, 10 inches or more, interior balconies, mezzanines and enclosed porches and floor area devoted to accessory use. However, any space devoted to off-street parking or loading shall not be included in **FLOOR AREA**.

(2) For the purpose of determining off-street parking and loading requirements for any use, the **FLOOR AREA** shall be calculated as the sum of the gross horizontal areas of the several floors of the building or the portion thereof devoted to the use, including accessory storage areas located within selling or working space such as counters, racks or closets and any basement floor area devoted to retailing activities, to the production, preparation or processing of foods or to business or professional offices.

(3) However, **FLOOR AREA** for the purpose of measurement of off-street parking spaces shall not include: floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space; or basement floor area (except as otherwise noted herein).

**FLOOR AREA RATIO.** Of the building or buildings on any zoning lot, is the floor area of the building or buildings on that zoning lot divided by the total area of the zoning lot, or in the case of planned unit developments, by the total net site area.

**GARAGE OR YARD SALE.** A public or private sale conducted by the owner or occupier of a premises, and conducted within a residence, garage or other accessory buildings or outside thereof, which sale is of 6 or more items of personal property owned or is in the possession of the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

**GREENBELT.** An area of undeveloped land, covered only by grass, shrubbery, trees and other similar natural vegetation, maintained in a slightly condition, and which may be in its natural state or graded and landscaped.

**GROUP HOME.** A single self-contained home established and operated by the county's Department of Welfare, licensed private child placement agency or licensed incorporated group established for the purpose of receiving and caring for up to 8 children or mentally impaired and developmentally disabled who are attended by house "parents".

**HARDSHIP.** A perceived difficulty with regard to one's ability to improve the land stemming from the application of the development standards of this chapter, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this chapter; any result of land division requiring variance from the development standards of this chapter in order to render the site buildable.

### **HOME OCCUPATIONS.**

(1) A gainful occupation or profession customarily carried on by an occupant of a dwelling unit as a use which is clearly incidental to the use of the dwelling unit for residential

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purposes. It does not include uses typically identified as a retail business, manufacturing business or a repair shop. **HOME OCCUPATIONS** shall not include the employment of any additional persons in the provision of such services.

(2) There shall be no exterior sign or display, except as allowed in the sign regulations for the district in which the home occupations may be located; there shall be no exterior manifestations of the home occupations which would adversely affect the neighborhood; and, there shall be no storage of equipment or materials used in connection with the home occupation.

(3) A **HOME OCCUPATION** includes, but is not limited to, such uses as the following: art studio, custom dressmaking and sewing, professional office of a clergyperson, lawyer, physician, dentist, architect or engineer, realtor, accountant or teacher of music, beauty shop limited to 1 customer at a time, dance and other instruction when limited to 1 pupil at a time and when located in a dwelling occupied by the same. **HOME OCCUPATIONS**, however, shall not be construed to include such uses as the following: medical clinic or hospital, barber, tea room or restaurant, gift shop or millinery shop, machine shop or automobile repair shop, tourist home, commercial stable or kennel.

**HOSPITAL.** A “hospital” is an institution where physicians and other medical professionals provide health services primarily for in-patient nursing and medical or surgical care and treatment for persons suffering from injuries or from physical or mental ailments. Additional facilities and services, including laboratories, diagnostic testing, analytical and clinical research, out-patient department, training facilities, administrative and staff offices, recovery living quarters, and other similar uses determined by the Plan Commission related directly to the health services provided may be located and operated as an integral part of such hospital.

(Ord. 2008-17, § 1)

**HOTEL, APARTMENT.** A hotel which contains dwelling units or dwelling units and lodging rooms, and in which at least 50% of the gross floor area devoted to residential use shall be allocated to the dwelling units.

**HOTEL, TRANSIENT.** Any hotel which is not an apartment hotel.

**IMPROVEMENT LOCATION PERMIT.** A document permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure within its jurisdiction, or cause the same to be done, or to change the use or condition of the land.

**JUNK YARD.** A “junk yard” is an open area where waste or scrap metals are kept, discarded, abandoned, bought, sold, exchanged, sorted, baled, parked, disassembled or handled, including scrap iron and other metal, paper, rags, rubber tires, bottles and other similar uses determined by the Plan Commission. A “junk yard” includes an automobile wrecking yard but does not include uses established entirely within enclosed buildings.

(Ord. 2008-17, § 1)

**KENNEL.** Any facility where any person engages in boarding, breeding, buying, letting for hire or selling of dogs and/or cats. Any facility or premise housing or keeping 4 or more cats and/or dogs over 4 months of age, or boarding more than 2 such animals for compensation, or holding more than 2 such animals for sale shall be deemed a **KENNEL**.

**LANDSCAPING.** The act of preservation, retention, planting and maintenance of well-



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designed vegetation in order to promote and enhance the beauty of the City of Hobart. Insofar as practical, **LANDSCAPING** also includes the act of safeguarding the ecological environment of the City of Hobart by dissuading the unnecessary clearing and disturbing of land and existing natural vegetation.

**LIVING SPACE, FINISHED.** Space or room within a residential dwelling complying with all building codes deemed suitable for human habitation including electrical, HVAC and where applicable, plumbing.

**LOADING SPACE, OFF-STREET.** A space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. **REQUIRED OFF-STREET LOADING SPACE** is not to be included as off-street parking space in the computation of required off-street parking space.

**LODGING HOUSE or BOARDING HOUSE.** A dwelling containing 1 or more lodging rooms in which lodging or meals are provided for compensation on a weekly or monthly basis to 1 or more persons who are not of the keeper's family and are not transients.

**LODGING ROOM.** A room rented as a sleeping and living quarters without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as 1 **LODGING ROOM** for the purposes of this chapter.

**LOT.** A zoning lot, except as the context shall indicate a "lot of record", in which case a **LOT** is a lot of record. A **LOT** is a tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

**LOT, AREA.** The area of a horizontal plane bounded by the front, side and rear lot lines, less any portion of the lot which is below the established water line of any lake or stream or body of water.

**LOT, CORNER.** A lot which is situated at the intersection of 2 streets; the interior angle of the intersection not exceeding 135 degrees. A lot with streets abutting more than 2 sides shall also be a **CORNER LOT**.

**LOT, COVERAGE.** The percentage of the lot area that is represented by the impervious surface, including all buildings and structures, driveways, patios and sidewalks. Swimming pools, open design wooden decks, landscaped areas, decorative stone, ground cover shall not be included in the determination of **LOT COVERAGE**.

(Ord. 2001-10)

**LOT, DEPTH.** The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

**LOT, REVERSE CORNER.** A corner lot of which the side lot line adjoining the intersecting street is substantially a continuation of the front lot line of the first lot to its rear.

**LOT, THROUGH.** A lot other than a corner lot having a pair of opposite lot lines along 2 more or less parallel public streets. On a **THROUGH LOT**, both street lines shall be considered

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as front lot lines.

**LOT, WIDTH.** The mean horizontal distance between the side lot lines of a lot measured within the lot boundaries.

**LOT LINE, FRONT.** The lot line of a lot which is parallel to an existing or dedicated public street, public way or a lake or watercourse. The owner of a corner lot may elect either street lot line as the **FRONT LOT LINE**.

**LOT LINE, REAR.** The lot line of a lot which is opposite from, or is most nearly parallel to the front lot line, except that for a triangular or other irregular shaped lot it means the line at least 10 feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the front lot line.

**LOT LINE, SIDE.** Any lot line of a lot separating 2 lots other than a front lot line or a rear lot line.

**LOT OF RECORD.** A lot which is part of a subdivision which has been recorded in the office of the county's Recorder, or is a lot as indicated on the official zoning map of the City of Hobart, Indiana, dated December 21, 1977, and held in the office of the city's Engineer. (Ord. 96-08)

**LOT, ZONING.** A single tract of land located within a single block, which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore, a **ZONING LOT** may or may not coincide with a lot of record.

**MANUFACTURED HOME.** A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it is built in compliance with federal Manufactured Housing Construction and Safety Standards Law, and which complies with the following specifications:

- (1) Shall have been constructed after January 1, 1981, and must exceed 950 square feet of occupied space;
- (2) Is attached to permanent foundation of concrete or masonry construction and has a permanent perimeter enclosure constructed in accordance with the One and Two Family Dwelling Code;
- (3) Has axles, wheels and towing chassis removed;
- (4) Has a pitched roof with a minimum rise of 4/12; and
- (5) Consists of 2 or more sections which, when joined, have a minimum dimension of 20 feet by 47-1/2 feet in length or width enclosing occupied space.

**MARQUEE or CANOPY.** A roof-like structure of a permanent nature which projects from the wall of a building and overhangs the public way and is designed and intended to protect pedestrians from adverse weather conditions.

**MEDICAL OR DENTAL CLINIC.** A facility operated by 2 or more physicians and/or

dentists and other employees, and providing health services for the out-patient treatment of persons suffering from injuries or from physical or mental ailments. For the purposes of this chapter, the term **MEDICAL OR DENTAL CLINIC** shall include the term **GROUP MEDICAL CENTER**.

**MEDICAL OR DENTAL OFFICE.** A facility operated by 1 physician or dentist and by not more than 2 other employees, and providing health services for the out-patient treatment of persons suffering from injuries or from physical or mental ailments.

**MOBILE HOME.** Any vehicle without a motive power designed by the manufacturer or maker with hitch and undercarriage to permit attachment of axles and wheels, and so designed to permit its being used as a conveyance upon public streets or highways and so designed, constructed or reconstructed, or added to by means of an enclosed addition or room in such a manner as will permit the occupancy thereof as a single-family dwelling for 1 or more persons, and not qualifying under the definition of a manufactured home. A house trailer larger than 320 square feet shall be considered a **MOBILE HOME** and can be used as a year-round residential dwelling. A travel trailer or camper less than 320 square feet is not to be considered a **MOBILE HOME** and therefore cannot be used as a year-round residential dwelling.

**MOBILE HOME PARK.** Any area of land upon which 2 or more mobile homes are harbored for the purpose of being occupied either free of charge or for revenue purposes, and shall include any building, structure, vehicle or enclosure used or intended for use as a part of the equipment of the mobile home park.

**MOBILE HOME SITE.** The area of land within a mobile home park which accommodates or is intended to accommodate one mobile home, exclusive of streets, sidewalks, alleys, parking areas, buildings and structures other than the mobile home accommodated or intended to be accommodated and its yard and assigned portion of any greenbelt or recreational area.

**MOTEL OR TOURIST COURT.** A building or a group of buildings located on a single zoning lot, designed and intended to provide individual sleeping or living units for rent to guests, primarily arriving by automobile or public carrier. Ancillary to the principle function of providing rooms to guests may be a variety of other uses such as swimming pools, bars and restaurants, meeting and convention facilities, theaters and showrooms and other such uses.

**MOTOR FREIGHT TERMINAL.** A building in which freight brought by truck is assembled or reassembled and sorted for routing in intrastate or interstate shipment. Minor repairs, servicing and refueling may be conducted in such motor freight terminals.

**MOTOR VEHICLE REPAIR, MAJOR.** Includes engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers, collision service, including body, frame or fender repair or straightening and overall painting of vehicles.

**MOTOR VEHICLE REPAIR, MINOR.** Includes incidental repairs and replacement of parts, motor service and oil and lubrication to motor vehicles, but does not include any operation specified under "major motor vehicle repairs".

**NAMEPLATE.** A sign indicating the name or address of a building or the name of an occupant thereof or the name of the practice of a permitted occupation therein.

**NET SITE AREA.** The entire land area within the boundaries of a site, less 1/2 the area of

any dedicated streets or alleys located along the boundaries of the site.

**NON-CONFORMING BUILDING OR STRUCTURE.** Any building or structure which does not comply with all the regulations of this chapter or of any amendment hereto governing bulk for the zoning district in which the building or structure is located, or any building or structure which is designed or intended for a non-conforming use.

**NON-CONFORMING USE.** Any use of land , buildings or structures which does not comply with all of the regulations of this chapter or of any amendment hereto governing use for the zoning district in which the use is located.

**NOXIOUS MATTER.** Any material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

**OUTDOOR ADVERTISING BUSINESS.** Provides outdoor displays or display space on a lease or rental basis only.

**OUTDOOR ADVERTISING.** A sign which directs attention to a business, commodity, service, entertainment or idea conducted, sold or offered elsewhere than upon the premises upon which the sign is located.

**OUTDOOR SALES.** The sale of retail or wholesale merchandise of any kind, not wholly within a permanent, fully enclosed structure, excluding the sale of fireworks, and the sale of merchandise on public property with Board of Public Works and Safety approval.  
(Ord. 97-15)

**PARKING AREA.** A group of parking spaces, which are exclusive of any part of a street or alley, designed or used for the temporary parking of motor vehicles.

**PARKING GARAGE.** A structure where parking but not repairs are made available to the public.

**PARKING SPACE.** An open space exclusive of the maneuvering aisle and driveway for the parking of a motor vehicle.

**PERFORMANCE STANDARD.** A criterion established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards and glare or heat generated by or inherent in the use of land or buildings.

**PLANNED UNIT DEVELOPMENT.** A tract of land which is developed as a unit under single ownership or control, which includes 2 or more principal buildings and which is at least 3 acres in area for residential planned developments, at least 4 acres in area for business planned developments and at least 5 acres in area for manufacturing planned developments.

**PLAT.** A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the county's Recorder.

**PRIMARY ARTERIAL.** A street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas and similar traffic generators within the city and/or as

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a route between communities.

**PRINCIPAL BUILDING.** A building in which the principal use of the lot or parcel on which it is located is conducted. Standards recognized by the Indiana Department of Fire Prevention and Building Safety shall be used to determine whether a given structure constitutes 1 or more buildings in cases where ambiguities exist.

**PRINCIPAL USE.** Of a building or property, is that use which occupies the majority of floor area or square footage of the building or lot respectively.

**PRIVATE CAMP.** An area of land used or designed to be used to accommodate groups or organized camping parties, including cabins, tents, food service and recreational services.

**PRIVATE GARAGE.** A garage whose principal use is to house motor vehicles for the accommodation of related dwelling units or related business establishments.

**PRIVATE SCHOOL.** Any school which is not a public school.

**PROFESSIONAL OFFICE.** A “professional office” is an office used by members of a recognized profession including architects, artists, dentists, engineers, insurance agents and brokers, lawyers, musicians, pharmacists, physicians, realtors, surgeons, and other similar uses determined by the Plan Commission.

(Ord. 2008-17, § 1)

**PUBLIC IMPROVEMENT.** Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, underground utilities, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**RAILROAD RIGHT-OF-WAY.** A strip of land with tracks and auxiliary facilities for track operations, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops or water towers.

**RECREATIONAL VEHICLE.** A portable vehicular structure designed as a temporary dwelling for travel and vacation uses which:

(1) Is identified on the unit by the manufacturer as a travel trailer or a motor home and is of a size that is street legal; and

(2) Is a structure mounted on an automobile or truck and is designed to be used for sleeping and human habitation.

### **RECYCLING DROP-OFF CENTER.**

(1) A place where pre-sorted recyclable materials may be dropped off in drop boxes. The materials typically include paper, cardboard, paperboard, glass, plastic and metal. Other recyclable pre-sorted materials may be included by specific reference in the conditional use ordinance adopted for the intended site.

(2) “Drop boxes” shall be painted weather resistant and maintained in good repair, and

equipped with a tight fitting lid. All recyclable material shall be maintained completely within the drop box. All signs shall conform to the sign provisions of the district. The BZA may place additional conditions or restrictions of the use as are appropriate to the zoning district in which they are located.

(3) **RECYCLING DROP-OFF CENTERS** shall accept only paper, paperboard, glass, plastic containers, metal and reusable materials as allowed by the specific conditional use. The centers shall use no power driven processing equipment. They shall use attractive containers of waterproof and rustproof materials which are clearly marked to identify the type of material which may be deposited; painted and maintained in good repair, and covered and secured from unauthorized entry or removal of material when the site is not attended. Such centers shall store all recyclable material in the containers and not left outside the containers when the attendant is not present. They shall be maintained free of fluids, odors, litter, rubbish, garbage and any other non-recyclable material, and shall be swept and cleaned at the end of each collection day. **RECYCLING DROP-OFF CENTERS** shall be located only on paved surfaces in conjunction with public or private institutional parking lots not within 200 feet from any residence; or, in conjunction with a § 501(c)(3) non-for-profit operation which, in accordance with the city plan, is delegated to provide the service. Center operations shall not interfere with pedestrian or vehicular movement.

(4) Identification signs shall not exceed 16 square feet, be non-illuminated and shall identify the name and telephone number of the facility operator and the hours of operation. Hours of operation shall not exceed 9:00 a.m. to 5:00 p.m. Monday through Saturday and there shall be no Sunday operations.

**RECYCLING PLANT.**

(1) A facility which is designed and intended to receive and process recyclable material into products which may be reconstructed and/or recast into reusable end products for the market place or for further processing.

(2) A **RECYCLING PLANT** shall receive, separate, store, process, convert and/or bale recyclable materials such as paper, iron, metal, glass, plastic containers and other non-biodegradable recyclable material deemed appropriate by the Plan Commission and the Common Council, and as listed in the specifications and limitations of the conditional use. Hazardous and biodegradable materials including, but limited to, food, beverage, drugs, cosmetics, hazardous chemicals, poisons, medical wastes, syringes, needles, pesticides and other similar materials shall not be brought into or handled by a **RECYCLING PLANT**.

(3) Outdoor storage of recyclable materials shall be contained within bins or on pallets or located on a paved area and, such outdoor storage area shall be enclosed by view obstructing walls, fences or buildings. No storage shall be visible from a public right-of-way or from any residential land use. All separation, sorting, processing, baling or other activity shall occur entirely within an enclosed building. The ambient noise level shall not be increased as measured at any property line. The owner/operator of the recycling plant shall prevent or immediately eliminate any nuisance created by dust, odors, blowing material, litter, ponding water, noise or other nuisance. Rodents, vermin, flies and other insects shall be immediately controlled.

(4) The **RECYCLING PLANT** shall be located on a lot having a minimum size of 80,000 square feet and the buildings shall be at least 1,000 feet from any school, church, public building or retail and office commercial structure located on adjoining lots, or from a boundary of

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a residential zoning district. The site shall have access on an arterial street. Space shall be provided for a minimum of 6 vehicles or the anticipated peak hourly customer load, whichever is higher. In addition, parking shall be provided for each employee and for each commercial vehicle of the recycling station.

(5) Identification signs shall not exceed 16 square feet and shall identify the name and telephone number of the facility operator and the hours of operation. Hours of operation shall not exceed 7:00 a.m. to 7:00 p.m. Monday through Saturday and there shall be no Sunday operations.

### ***RECYCLING STATION.***

(1) A facility which is designed and intended to receive pre-sorted recyclable material from “recycling drop-off centers” or directly from residents or from municipal sources. The recycling stations aggregate pre-sorted material within completely enclosed buildings for eventual transfer to “recycling plants” or manufacturing facilities.

(2) ***RECYCLING STATIONS*** shall accept only pre-sorted recyclable material from “recycling drop-off centers”, or directly from residents or municipal sources. The material shall be stored in bins, barrels or semi-tractor trailers. The storage places shall be equipped with lids, covers or doors to prevent access by rodents and vermin. No material shall be stored or deposited on the premises in such manner that they may be transferred off the premises by natural causes or forces. The site shall be kept free of fluids, odors, litter, rubbish, garbage and other non-recyclable material, and it shall be cleaned on a daily basis. Recyclable material shall include absolutely no hazardous or biodegradable wastes. No burning, melting or other reclamation shall be permitted. ***RECYCLING STATIONS*** shall be located on a lot with a minimum size of 20,000 square feet.

(3) The aggregation of pre-sorted material shall take place within completely enclosed buildings and the building shall be at least 400 feet from school, church, public building or retail and office commercial structure located on adjoining lots, or from the boundary of a residential zoning district. The site shall have access on an arterial street. Space shall be provided for a minimum of 6 vehicles or the anticipated peak hourly customer load, whichever is higher. In addition, parking shall be provided for each employee and for each commercial vehicle of the recycling station.

(4) Identification signs shall not exceed 16 square feet and shall identify the name and telephone number of the facility operator and the hours of operation. Hours of operation shall not exceed 7:00 a.m. to 7:00 p.m. Monday through Saturday and there shall be no Sunday operations.

(5) A detailed site and operations plan, including access, parking, signs, fencing and landscaping; and including provisions for supervision, hours of operation and security shall be subject to the approval of the Plan Commission and Common Council. The plan shall have a clear description of the recyclable materials that are to be accepted.

***REGULATORY FLOOD.*** The flood having a peak discharge which can be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the Federal Emergency Management Administration. This flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

***REGULATORY FLOOD WAY.*** The channel of a river and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow

of the regulatory flood of any river or stream and, is that area covered by flood waters in significant downstream motion.

**REGULATORY FLOOD WAY FRINGE.** The area adjacent to the flood way which is significantly covered by volumes of stored water during the occurrence of the regulatory flood.

**RESTAURANT.** Any land, building or part thereof other than a boarding house, where meals are prepared and sold to the public for consumption on the premises, or sold as a carry-out including a café, cafeteria, coffee shop, lunch room, drive-in stand, tea room and dining room.

**REST HOME; NURSING HOME; CONVALESCENT HOME, INSTITUTION FOR THE AGED OR FOR CHILDREN.** An institution where infirm persons or the aged or children reside, where in-patient physician and nursing care may be provided to persons suffering from physical or mental ailments, where daily out-patient physician and nursing care may be provided, and where administrative and staff offices and living quarters operating as an integral part of the institution may be provided. For the purpose of this chapter, the term **REST HOME** shall include the term **DAY CARE CENTER**, an institution where daily out-patient nursing care is provided.

**SECONDARY ARTERIAL.** A street intended to collect and distribute traffic in a manner similar to primary arterials, except that these streets service minor traffic generating areas such as local commercial areas, primary and secondary schools, hospitals, community recreational areas, churches and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.

**SIGN.**

(1) A name, identification, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business.

(2) However, the term **SIGN** shall not include any display of official court or public notices, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group. A **SIGN** shall not include a sign located completely within an enclosed building. Each display surface of a sign shall be considered to be a **SIGN**. However, a double-faced sign shall be measured by the largest silhouette the sign may produce.

**SIGN, ADVERTISING.** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such a sign is located or to which it is affixed.

**SIGN, BUSINESS.** An accessory sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where the sign is located or to which it is affixed.

**SIGN, ELECTRIC, DIGITAL.** A sign whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display surface that does not violate flashing regulations and is composed of electronically illuminated, preprogrammed, computer-driven, or by electronic impulses.

**SIGN, FLASHING.** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color for a period less than 10 seconds when such sign is in



use. For the purpose of this chapter, any revolving, blinking, fluttering lights on an illuminated sign shall be considered a **FLASHING SIGN**.

**SIGN, ILLUMINATED.** A sign which is illuminated by an internal or external source.

**SIGN, MONUMENT, FREE-STANDING.** A sign on a separate support structure or foundation not attached to any building structure and where no internal structural framework to include poles, pylons, or separate supports are exposed.

**SIGN, OUTDOOR ADVERTISING.** A structural poster panel or painted sign, either free-standing or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the activities on the premises on which it is located.

**SIGN, POLE, PYLON.** A sign that is affixed, attached or erected on an exposed support system where no integral architectural style is complemented.

**SIGN, PORTABLE.** A free-standing sign that is not permanently affixed to a building, structure or the ground and is designed to be moved from place to place, including trailer signs.

**SIGN, ROTATING BEACON.** A light of any color or design which is so intended to rotate or turn in such a way as to call attention to a particular product, sign, place of business or activity. The **ROTATING BEACON SIGN** shall not be construed to include rotating lights on emergency vehicles authorized to have the lights.

**SIGN, TEMPORARY.** A sign installed for a limited time and not constructed or intended for long-term use.

**SITE PLAN REVIEW.** The systematic assessment of land development proposals in terms of a community's land development policies and regulations and commonly accepted site design practices.  
(Ord. 96-15)

**STREET.** A public right-of-way which affords a primary means of access to abutting property.

**STREET LINE.** The line separating a zoning lot or parcel from the street.

**STRUCTURAL CHANGE OR ALTERATION.** The substantial change of a supporting member of a building which would add to or prolong the life of the structure, such as a bearing wall or partitions, column, beam or girder, or in an exterior wall or the roof. This does not include normal upkeep and incidental repairs.

**STRUCTURE.** Anything constructed or erected which requires location on the ground or which is attached to something having a location on the ground. For the purpose of this chapter, a **STRUCTURE** shall include signs of all kinds.

**SUBDIVISION.** The division of a parcel of land into 2 or more lots, parcels, sites, units, plats or interests for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision.

**TAVERN or BAR.** A building wherein intoxicating liquors are sold to be consumed on the

premises, not including restaurants where the principal business is serving food.

**TEMPORARY STORAGE CONTAINER.** A temporary storage container is a portable structure without wheels or axles, which is structurally self-supported, not permanently affixed to the ground, placed on a building site for the purpose of short-term storage of finished commercial merchandise for sale at a later time by the same occupant of the permanent structure on the same site.

**TOURIST HOME** or **BED AND BREAKFAST HOME.** A dwelling having 1 to 3 bedrooms for rent to transients as an activity which is subordinate and incidental to the main residential use of the building, in which meals or lodging are provided or offered to transient guests for compensation.

**TOXIC OR RADIOACTIVE MATERIALS.** Those materials which are capable of causing injury to living organisms by chemical means and/or radioactive emissions when present in relatively small amounts.

**USE.** The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner or performance of the activity with respect to the performance standards of this chapter.

**USE, PRINCIPAL.** The main use of land or buildings as distinguished from a subordinate or accessory use.

**USE VARIANCE.** The approval of a use other than that prescribed by this zoning ordinance.

**VARIANCE.** The specific approval granted by the Advisory Board of Zoning Appeals in the manner prescribed by this chapter, to deviate from the development standards (such as height, bulk or area) that the chapter otherwise prescribes.

**WINERY.** An industrial use which creates wines and or similar beverages on site and is the primary use. The winery operation must maintain over 50% of the gross floor area. Brewpubs and tasting rooms are allowed as accessory uses to the winery.  
(Ord. 2012-38, § 1(D))

**YARD.** An open space on a zoning lot which is unoccupied and unobstructed from the ground level or lowest level otherwise specified, to the sky, except as otherwise allowed herein. A **YARD** extends along a lot line at right angles to the lot line to a depth or width specified in the yard regulations for the zoning district in which the zoning lot is located.

**YARD, FRONT.** A yard extending along the full length of the front lot line between the side lot lines.

**YARD, REAR.** A yard extending along the full length of the rear lot line between the side lot lines.

**YARD, SIDE.** A yard extending along a side lot line from the front yard (or front lot line when there is no front yard) to the rear yard (or rear lot line when there is no rear yard.)  
(Prior Code, § 24-7) (Ord. 93-59; Ord. 2001-41; Ord. 2002-02, § 1; Ord. 2002-10; Ord. 2003-03, § 1; Ord. 2005-22, § 1; Ord. 2007-32, § 1)

**A-1 AGRICULTURAL DISTRICTS**

**§ 154.020 USE AND BULK REGULATIONS IN A-1 AGRICULTURAL DISTRICTS.**

(A) Use and bulk regulations applying specifically to agriculture uses are set forth in this subchapter.

(B) Also applying to agricultural districts are additional regulations set forth in other subchapters and sections of this chapter as follows:

- (1) Section [154.004](#), Zoning districts, establishment and application;
- (2) Section [154.005](#), Rules and interpretation of district boundaries;
- (3) Section [154.006](#), General provisions and supplementary district regulations;
- (4) Section [154.007](#), Definitions;
- (5) Sections [154.295](#) *et seq.*, Planned Unit Development Districts;
- (6) Sections [154.320](#) *et seq.*, Mobile Homes and Mobile Home Parks;
- (7) Sections [154.355](#) *et seq.*, Off-Street Parking and Loading;
- (8) Sections [154.375](#) *et seq.*, Signs;
- (9) Conditional Uses (see editor's note at end of chapter analysis);
- (10) Sections [154.460](#) *et seq.*, Non-conforming Uses and Non-conforming Buildings;

and

(11) Sections [154.480](#) *et seq.*, Administration and Enforcement.  
(Prior Code, § 24-8) (Ord. 93-59; Ord. 2001-41)

**§ 154.021 PURPOSE.**

The purpose of this subchapter is to establish a district in which agricultural uses may take place, and to identify other compatible allowable uses, as well as conditional uses which may be allowed under certain circumstances and with limitations as identified hereinafter.

(Prior Code, § 24-9) (Ord. 93-59; Ord. 2001-41)

**§ 154.022 PERMITTED USES.**

The following listed uses and no others are permitted uses in agricultural districts:

(A) All uses commonly referred to as agriculture, horticulture, crop and tree farming, truck

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farming, orchards, gardening, nursery operations, dairy farming, stock raising, domestic animal and poultry breeding and raising (but not including dog kennels or animal hospitals) and forestry operations including sawmills; together with the operation of any farm machinery or vehicles incidental to the above uses;

(B) Churches, rectories, parish houses, seminaries, convents, monasteries and similar religious institutions, and other accessory uses required for their operation;

(C) Golf courses and golf clubs, both private and public, but not including miniature golf courses and driving ranges which are commercially operated;

(D) Home occupations;

(E) Horse boarding stables, riding academies and sales incidental and accessory thereto;

(F) One-family detached dwellings;

(G) Parks, forest preserves, and recreational areas, when publicly owned and operated;

(H) Planned unit developments, residential as set forth herein;

(I) Schools and other accessory uses required for their operation;

(J) Signs, as permitted herein;

(K) Temporary buildings for construction purposes for a period of time not to exceed the construction;

(L) Temporary roadside stands for the sale of agricultural products grown on the premises; and

(M) Accessory buildings and uses customarily incidental to any of the above uses; and

(N) Sale of personal property owned by the occupant of a residence located on the same property.

(Prior Code, § 24-10) (Ord. 93-59; Ord. 97-15; Ord. 2001-41)

### § 154.023 CONDITIONAL USES.

In A-1 districts, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein:

(A) Airports and heliports;

(B) Cemeteries;

(C) Colleges and universities, including dormitories, fraternities, sororities and other accessory buildings, trade schools and business colleges;

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- (D) Mobile home parks;
- (E) Nursery schools, both public and private;
- (F) Parks, playgrounds and community centers, privately owned and operated, and other recreational uses;
- (G) Philanthropic institutes;
- (H) Public utility and public service uses; and
- (I) Recycling drop-off centers.  
(Prior Code, § 24-11) (Ord. 93-59; Ord. 2001-41)

### **§ 154.024 MINIMUM LOT SIZE.**

Minimum lot size requirements for an A-1 district are as follows.

(A) Every 1-family detached dwelling hereafter erected shall be on a zoning lot having an area of not less than 5 acres and a width at the established building line of not less than 150 feet. There shall be only 1 dwelling to a zoning lot.

(B) Other non-residential permitted uses hereafter established in this district shall be on a tract of land having an area of not less than 3 acres and a width at the established building line of not less than 150 feet.

(C) Minimum lot sizes of conditional uses listed as permitted uses in this district shall be prescribed by the BZA at the time the conditional use ordinance is adopted, but in no case shall the lot size be less than 18,000 square feet in area nor less than 150 feet in width.  
(Prior Code, § 24-12) (Ord. 93-59; Ord. 2001-41)

### **§ 154.025 MAXIMUM FLOOR AREA RATIO.**

In an A-1 district, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 0.5.  
(Prior Code, § 24-13) (Ord. 93-59; Ord. 2001-41)

### **§ 154.026 MAXIMUM BUILDING COVERAGE.**

In an A-1 district, the maximum building coverage on a zoning lot shall not exceed 35%.  
(Prior Code, § 24-14) (Ord. 93-59; Ord. 2001-41)

### **§ 154.027 MINIMUM FRONT YARD.**

In an A-1 district, no portion of any building hereafter erected or enlarged shall be located closer than 25 feet to the front property line.  
(Prior Code, § 24-15) (Ord. 93-59; Ord. 2001-41)

**§ 154.028 MINIMUM SIDE YARD.**

In an A-1 district, no portion of any building hereafter erected or enlarged shall be located closer than 10 feet on either side of the building to the side property line.  
(Prior Code, § 24-16) (Ord. 93-59; Ord. 2001-41)

**§ 154.029 MINIMUM REAR YARD.**

In an A-1 district, no portion of any building hereafter erected or enlarged shall be located closer to the rear property line than 25% of the lot depth.  
(Prior Code, § 24-17) (Ord. 93-59; Ord. 2001-41)

***R-1 AND R-2 SINGLE-FAMILY RESIDENCE DISTRICTS***

**§ 154.040 USE AND BULK REGULATIONS IN ALL RESIDENCE DISTRICTS.**

(A) Use and bulk regulations applying specifically to residences are set forth in this subchapter.

(B) Also applying to residence districts are additional regulations set forth in other subchapters and sections of this chapter as follows:

- (1) Section [154.004](#), Zoning districts, establishment and application;
  - (2) Section [154.005](#), Rules and interpretation of district boundaries;
  - (3) Section [154.006](#), General provisions and supplementary district regulations;
  - (4) Section [154.007](#), Definitions;
  - (5) Sections [154.295](#) *et seq.*, Planned Unit Development Districts;
  - (6) Sections [154.320](#) *et seq.*, Mobile Homes and Mobile Home Parks;
  - (7) Sections [154.355](#) *et seq.*, Off-Street Parking and Loading;
  - (8) Sections [154.375](#) *et seq.*, Signs;
  - (9) Conditional Uses (see editor's note at end of chapter analysis);
  - (10) Sections [154.460](#) *et seq.*, Non-conforming Uses and Non-conforming Buildings;
- and

(11) Sections [154.480](#) *et seq.*, Administration and Enforcement.  
(Prior Code, § 24-21) (Ord. 97-15; Ord. 2001-41)

**§ 154.041 PURPOSE.**

The purpose of this subchapter is to establish 2 districts in which single-family residential use may take place, and to identify other compatible allowable uses, as well as transitional uses and conditional uses which may be allowed under certain circumstances and with limitations as identified hereinafter.

(Prior Code, § 24-22) (Ord. 97-15; Ord. 2001-41)

**§ 154.042 PERMITTED USES IN R-1 AND R-2 RESIDENCE DISTRICTS.**

The following listed uses and no others are permitted uses in R-1 and R-2 districts:

(A) Residential uses as follows:

- (1) One-family detached dwellings; and
- (2) Planned unit developments, residential as set forth herein.

(B) Community service uses as follows:

- (1) Churches, rectories and parish houses;
- (2) Parks, playgrounds and community centers and other recreational uses publicly owned and operated;
- (3) Public and parochial schools and ancillary buildings;
- (4) Public electric, gas, water and telephone facilities; and
- (5) Public libraries.

(C) Miscellaneous uses as follows:

(1) Open space uses, including nurseries and truck gardens; provided that, no offensive odor or dust is created and there is no sale of products produced on the premises, but not including the raising of poultry or livestock. No stand or building for retailing of products shall be permitted; and

(2) Temporary real estate offices in conjunction with a new housing or subdivision development, limited to the selling or renting of new units in the developments and in no case to be operated for more than 1 year following the completion of construction of the housing development.

(D) Uses incidental to principle permitted uses as follows:

- (1) Accessory uses;
- (2) Home occupations;

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(3) Signs;

(4) Temporary buildings for construction purposes, for a period of time not to exceed the duration of the construction; and

(5) Sale of personal property owned by the occupant of a residence located on the same property.

(Prior Code, § 24-23) (Ord. 97-15; Ord. 2001-41)

**§ 154.043 TRANSITIONAL USES IN R-1 AND R-2 RESIDENCE DISTRICTS.**

In R-1 and R-2 districts, the following uses are permitted when located on a lot not over 300 feet in width measured along the lots frontage, which adjoins at a side or rear lot line or is separated only by an alley or public easement at a side lot line from property in a business or manufacturing district, a railroad right-of-way or utility station, tower or detention or retention pond, or drainage ditch:

(A) Two-family detached dwellings and row houses;

(B) Principal offices of professional persons for the practice of medicine, law, dentistry, architecture, engineering and similar professions; provided that, each such office is situated in the same dwelling unit as the home of the occupant, with not more than 2 persons other than members of the occupants' immediate family being employed. The residential character of the exterior of the building shall be entirely maintained except for permitted accessory signs as provided for herein;

(C) Residential mini-warehouses, provided that all storage is enclosed in a building, the transition property line is screened with a 6-foot decorative fence and landscaping approved by the Plan Commission; and

(D) Commercial greenhouses for passive wholesale use; provided, the use shall include no outdoor storage, nor retail sales.

(Prior Code, § 24-24) (Ord. 97-15; Ord. 2001-41)

**§ 154.044 USE VARIANCES IN R-1 AND R-2 RESIDENCE DISTRICTS.**

In R-1 and R-2 districts, the following uses may be allowed as a use variance by ordinance of the BZA of the city:

(A) Cemeteries;

(B) Colleges and universities, including dormitories, fraternities, sororities and other accessory buildings;

(C) Convents and monasteries;

(D) Medical and dental clinics or offices;

(E) Nursery schools, both public and private;



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- (F) Parks, playgrounds and community centers, privately owned and operated;
  - (G) Philanthropic institutes;
  - (H) Public utility and public service uses; and
  - (I) Recycling drop-off centers.
- (Prior Code, § 24-25) (Ord. 97-15; Ord. 2001-41)

**§ 154.045 MINIMUM LOT SIZE IN AN R-1 RESIDENCE DISTRICT.**

Minimum lot size requirements for an R-1 district are as follows.

(A) (1) Every 1-family detached dwelling hereafter erected and every transitional use permitted in this zoning district hereafter established shall be on a zoning lot having a minimum area of 12,000 square feet and a minimum width of 90 feet at the building line. A lot of record existing on the effective date of this chapter which is less than 12,000 square feet in area or less than 90 feet in width may be improved with a 1-family detached dwelling.

(2) However when such lot of record is less than 50 feet in width at the building line, and is in the same ownership on or after the effective date of this chapter as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined as a single zoning lot for this purpose or unless further resubdivision produces the requisite 90-foot minimum lot width.

(B) Other non-residential permitted uses listed in this district hereafter established shall be on a zoning lot having a minimum area of 12,000 square feet and a minimum lot width of 90 feet at the building line.

(C) Minimum lot size of use variances listed as permitted in this district shall be prescribed by the Common Council upon the advice of the BZA at the time the use variance ordinance is adopted, but in no case shall any such lot size be less than 18,000 square feet in area nor less than 150 feet wide.

(Prior Code, § 24-26) (Ord. 97-15; Ord. 2001-41)

**§ 154.046 MINIMUM FLOOR AREA IN AN R-1 RESIDENCE DISTRICT.**

(A) No dwelling may be established, erected or changed so that its floor area exclusive of basements, terraces, unenclosed porches and garages in square feet, is less than prescribed below:

One story	1,450 square feet
Two story	1,850 square feet (first floor minimum-960 square feet)
Tri/bi-level	1,690 square feet (first floor minimum-960 square feet)

(B) However when a new dwelling is constructed on an established lot of record prior to adoption of this chapter, the new dwelling shall adhere to the average floor area of houses within it block and/or unit exclusive of basements, terraces, unenclosed porches and garages in square feet.

(Prior Code, § 24-27) (Ord. 97-15; Ord. 2001-41; Ord. 2006-08, § 1)

**§ 154.047 MINIMUM LOT SIZE IN AN R-2 RESIDENCE DISTRICT.**

Minimum lot size requirements for an R-2 district are as follows.

(A) (1) Every 1-family detached dwelling hereafter erected and every transitional use permitted in this zoning district hereafter established shall be on a zoning lot having a minimum area of 10,000 square feet and a minimum width of 80 feet at the building line. A lot of record existing on the effective date of this chapter which is less than 10,000 square feet in area or less than 80 feet in width may be improved with a 1-family detached dwelling.

(2) However, when the lot of record is less than 50 feet in width at the building line, and is in the same ownership on or after the effective date of this chapter as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined as a single zoning lot for this purpose or unless further resubdivision produces the requisite 80-foot minimum lot width.

(B) The regulations governing non-residential permitted uses minimum lot size as set forth in [§ 154.045](#) shall apply.

(C) The regulations governing use variances minimum lot size as set forth in [§ 154.045](#) shall apply.  
(Prior Code, § 24-28) (Ord. 97-15; Ord. 2001-41)

**§ 154.048 MINIMUM FLOOR AREA IN AN R-2 RESIDENCE DISTRICT.**

(A) No dwelling may be established, erected or changed so that its floor area exclusive of basements, terraces, unenclosed porches and garages in square feet, is less than prescribed below:

One story	1,250 square feet
Two story	1,450 square feet of living space (first floor minimum-800 square feet)
Tri/bi-level	1,450 square feet of living space (first floor minimum-800 square feet)

(B) However, when a new dwelling is constructed on an established lot of record prior to adoption of this ordinance, the new dwelling shall adhere to the average floor area of houses within its block and/or unit exclusive of basements, terraces, unenclosed porches, and garages in square feet.

(Prior Code, § 24-29) (Ord. 97-15; Ord. 2001-41; Ord. 2006-08, § 1)

**§ 154.049 MAXIMUM FLOOR AREA RATIO IN R-1 AND R-2 RESIDENCE DISTRICTS.**

In R-1 and R-2 districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 0.5.

(Prior Code, § 24-30) (Ord. 97-15; Ord. 2001-41)

**§ 154.050 MAXIMUM BUILDING COVERAGE IN R-1 AND R-2 RESIDENCE DISTRICTS.**

In R-1 and R-2 districts, the maximum building coverage on a zoning lot shall not exceed

35%.  
(Prior Code, § 24-31) (Ord. 97-15; Ord. 2001-41)

**§ 154.051 MINIMUM FRONT YARDS IN R-1 AND R-2 RESIDENCE DISTRICTS.**

Minimum front yard requirements for R-1 and R-2 districts are as follows.

(A) On every zoning lot a front yard shall be provided. The front yard is determined by the front of the residence, and cannot be altered once determined. In no case shall the front yard be less in depth than 30 feet in an R-1 district and 25 feet in an R-2 district; or 20% of the lot depth, whichever is less. The required minimum front yard shall be extended, but not more than 40 feet where lots comprising 40% of the frontage on the same street and within the same block are developed with buildings having front yards greater than the setback requirement, and with a variation of not more than 10 feet deep. The average of the front yards shall establish the minimum front yard depth for the entire frontage of the street within the same block.

(B) For buildings exceeding 25 feet in height, the minimum front yard determined in division (A) above shall be increased by 1 foot for each 2 feet or fraction thereof by which the building height exceeds 25 feet, but in no case shall a front yard of more than 40 feet be required.

(C) Required front yards shall be unobstructed from ground level to sky except as otherwise provided in [§ 154.006](#).  
(Prior Code, § 24-32) (Ord. 97-15; Ord. 2001-41)

**§ 154.052 MINIMUM SIDE YARDS IN R-1 AND R-2 RESIDENCE DISTRICTS.**

Minimum side yard requirements for R-1 and R-2 districts are as follows.

(A) *For 1-family detached dwellings.* On a lot improved with a 1-family detached dwelling, a side yard shall be provided along each side lot line. The combined width of both side yards shall be at least 20 feet in an R-1 district and 16 feet in an R-2 district; provided that, neither side yard shall be less than 8 feet in width.  
(Ord. 2001-10)

(B) *Reversed corner lots.* On a reversed corner lot, the side yard adjacent to the street shall not in any case be less than 20 feet in width.

(C) *Required side yards.* Required side yards shall be unobstructed from ground level to sky, except as otherwise provided in [§ 154.006](#) and except for privacy screens not over 6 feet above the average level of the adjoining ground. The privacy shall begin not nearer than 5 feet from the front of the house and may extend not more than 5 feet beyond the rear of the house.  
(Prior Code, § 24-33) (Ord. 97-15; Ord. 2001-41)

**§ 154.053 MINIMUM REAR YARDS IN R-1 AND R-2 RESIDENCE DISTRICTS.**

Minimum rear yard requirements in R-1 and R-2 districts are as follows.

(A) On every zoning lot a rear yard shall be provided. The rear yard shall be not less in

depth than 2/3 of the building height, but in no case less than 30 feet.

(B) Required rear yards shall be unobstructed from ground level to sky, except as otherwise provided in [§ 154.006](#).

(C) Required rear yards on reversed corner lots: When the residence faces the long lot dimension, and the required rear yard abuts the neighboring side yard, the required rear yard shall be treated as a side yard, and the side yard as the rear yard.  
(Prior Code, § 24-34) (Ord. 97-15; Ord. 2001-41)

### ***R-3 SINGLE TO FOUR-FAMILY RESIDENCE DISTRICTS***

#### **§ 154.070 PURPOSE.**

The purpose of this subchapter is to establish a district in which single-family up to 4-family residential use may take place, and to identify other compatible allowable uses, as well as transitional uses and use variances which may be allowed under certain circumstances and with limitations as identified hereinafter.  
(Prior Code, § 24-35) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.071 PERMITTED USES.**

The following listed uses and no others are permitted uses in an R-3 district:

(A) Any use permitted in an R-1 and R-2 district, as set forth in [§ 154.042](#); and

(B) Additional residential uses as follows: 2-family up to 4-family detached buildings.  
(Prior Code, § 24-36) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.072 TRANSITIONAL USES.**

In an R-3 district, the following uses are permitted:

(A) Any transitional use In R-1 and R-2 districts, as set forth in [§ 154.043](#); and

(B) Multiple-family detached dwellings.  
(Prior Code, § 24-37) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.073 USE VARIANCES.**

In an R-3 district, the following uses may be allowed as use variances as permitted by the BZA of the city: Any use listed as a use variance in R-1 and R-2 districts, as set forth in [§ 154.044](#).  
(Prior Code, § 24-38) (Ord. 97-15; Ord. 2001-41)

**§ 154.074 MINIMUM LOT SIZE.**

Minimum lot size requirements for an R-3 district are as follows.

(A) Every transitional use permitted in this zoning district hereafter established shall conform to the minimum lot sizes as established in an R-2 residence district as set forth in [§ 154.047](#), except that multiple-family transitional uses shall have a minimum of 2,000 square feet of lot area for each dwelling unit in such multiple-family transitional use.

(B) Every single-family or 2-family detached dwelling hereafter erected shall be on a zoning lot having a minimum area of 8,000 square feet and a minimum lot width of 70 feet at the building line; provided that, a lot of record on the effective date of this chapter which is less than 8,000 square feet in area or less than 70 feet in width may be improved with a single-family or 2-family detached dwelling where authorized by the Board of Zoning Appeals.

(C) Every 3- and 4-family detached dwelling hereafter erected shall be on a zoning lot having a minimum area of 10,000 square feet and a minimum lot width of 90 feet at the building line.

(D) The regulation governing use variance minimum lot size as set forth in [§ 154.045](#) shall apply.  
(Prior Code, § 24-39) (Ord. 97-15; Ord. 2001-41)

**§ 154.075 MAXIMUM FLOOR AREA RATIO.**

In an R-3 district, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 0.5.  
(Prior Code, § 24-40) (Ord. 97-15; Ord. 2001-41)

**§ 154.076 MAXIMUM BUILDING COVERAGE.**

In an R-3 district, the maximum building coverage on a zoning lot shall not exceed 35%.  
(Prior Code, § 24-41) (Ord. 97-15; Ord. 2001-41)

**§ 154.077 MINIMUM FRONT YARDS.**

In an R-3 district, the regulations governing front yards in R-1 and R-2 districts as set forth in [§ 154.051](#) shall apply.  
(Prior Code, § 24-42) (Ord. 97-15; Ord. 2001-41)

**§ 154.078 MINIMUM SIDE YARDS.**

Minimum side yard requirements in an R-3 district are as follows.

(A) *For 2- to 4-family detached dwellings.* On a lot improved with a 2- to 4-family building, a side yard shall be provided along each side lot line. The combined width of both side yards shall

be at least 24 feet; provided, that, neither side yard shall be less than 10 feet in width.

(B) *For 1-family detached dwellings.* The regulations governing side yards for 1-family detached dwellings 1 story in height in R-1 and R-2 districts as set forth in [§ 154.052](#) shall apply.

(C) *Reversed corner lots.* On a reverse corner, lot the side yard adjacent to the street shall be considered as a front yard and have a yard equal to the required front yard.

(D) *Exceptions for existing narrow lots.* The regulations governing existing narrow lots in R-1 and R-2 residence districts as set forth in [§ 154.045](#) shall apply.

(E) *Required side yards.* The required side yards shall be unobstructed from ground level to sky except as otherwise provided in [§ 154.006](#).  
(Prior Code, § 24-43) (Ord. 2001-10; Ord. 2001-41)

**§ 154.079 MINIMUM REAR YARDS.**

In an R-3 district, the regulations governing required rear yards in R-1 and R-2 residence districts as set forth in [§ 154.053](#) shall apply.  
(Prior Code, § 24-44) (Ord. 97-15; Ord. 2001-41)

***R-4 MULTIPLE-FAMILY RESIDENCE AND PUD DISTRICTS***

**§ 154.090 PURPOSE.**

The purpose of this subchapter is to establish a district in which multiple-family residential and a PUD use may take place, and to identify other compatible allowable uses, as well as use variances which may be allowed under certain circumstances and with limitations as identified hereinafter.  
(Prior Code, § 24-45) (Ord. 97-15; Ord. 2001-41)

**§ 154.091 PERMITTED USES.**

The following listed uses and no others are permitted uses in an R-4 district:

(A) Any use permitted in an R-3 district, as set forth in [§ 154.071](#) except single-family residences.

(B) Multiple-family residential; and

(C) Mobile home parks.  
(Prior Code, § 24-46) (Ord. 97-15; Ord. 2001-41)

**§ 154.092 USE VARIANCES.**

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In an R-4 district, the following uses may be allowed as use variance by ordinance: Any use listed as a use variance in R-1 and R-2 districts, as set forth in [§ 154.044](#). (Prior Code, § 24-47) (Ord. 97-15; Ord. 2001-41)

### **§ 154.093 MINIMUM LOT SIZE.**

Minimum lot size requirements for an R-4 district are as follows.

(A) Every 2-, 3- and 4-family detached dwelling hereafter erected shall conform to the minimum lot size as set forth in [§ 154.074](#).

(B) Every multiple-family building hereafter erected shall have a minimum lot area of 12,000 square feet and a minimum lot width of 80 feet at the building line; provided that, a minimum lot area per dwelling unit of not less than 2,000 square feet and that a minimum lot area per efficiency dwelling unit of not less than 1,200 square feet is provided. No existing structure or building shall be converted to conflict or further conflict with the provisions of this section.

(C) The regulations governing non-residential permitted uses minimum lot size as set forth in [§ 154.045](#) shall apply.

(D) The regulation governing use variance minimum lot size as set forth in [§ 154.045](#) shall apply. (Prior Code, § 24-48) (Ord. 97-15; Ord. 2001-41)

### **§ 154.094 MAXIMUM FLOOR AREA RATIO.**

In an R-4 district, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 0.5. (Prior Code, § 24-49) (Ord. 97-15; Ord. 2001-41)

### **§ 154.095 MAXIMUM BUILDING COVERAGE.**

In an R-4 district, the maximum building coverage on a zoning lot shall not exceed 35%. (Prior Code, § 24-50) (Ord. 97-15; Ord. 2001-41)

### **§ 154.096 MINIMUM FRONT YARDS.**

In an R-4 district, the regulations governing front yards in R-1 and R-2 districts as set forth in [§ 154.051](#) shall apply. (Prior Code, § 24-51) (Ord. 97-15; Ord. 2001-41)

### **§ 154.097 MINIMUM SIDE YARDS.**

Minimum side yard requirements in an R-4 district are as follows.

(A) *For multiple-family dwellings and all other residential buildings.* On a lot improved

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with a multiple-family residential building and for all other residential uses a side yard shall be provided along each side lot line. The combined width of both side yards shall be at least 24 feet or 30% of the lot width, whichever is less; provided that, neither side yard shall be less than 10 feet in width.

(B) *For non-residential buildings.* The regulations governing residential buildings in as set forth in division (A) above shall apply.

(C) *Reversed corner lots.* The regulations governing reversed corner lots in the R-3 residence district as set forth in [§ 154.078](#) shall apply.

(D) *Required side yards.* The required side yards shall be unobstructed from ground level to sky except as otherwise provided in [§ 154.006](#).  
(Prior Code, § 24-52) (Ord. 97-15; Ord. 2001-41)

### § 154.098 MINIMUM REAR YARDS.

In an R-4 district, the regulations governing required rear yards in R-1 and R-2 residence districts, as set forth in [§ 154.053](#), shall apply.  
(Prior Code, § 24-53) (Ord. 97-15; Ord. 2001-41)

## OS-1 OFFICE SERVICE DISTRICTS

### § 154.110 USE AND BULK REGULATIONS IN OS-1 OFFICE SERVICE DISTRICTS.

(A) Use and bulk regulations applying specifically to office service districts are set forth in this subchapter

(B) Also applying to office service districts are additional regulations set forth in other subchapters and sections of this chapter as follows:

- (1) Section [154.004](#), Zoning districts, establishment and application;
- (2) Section [154.005](#), Rules and interpretation of district boundaries;
- (3) Section [154.006](#), General provisions and supplementary district regulations;
- (4) Section [154.007](#), Definitions;
- (5) Sections [154.295](#) *et seq.*, Planned Unit Development Districts;
- (6) Sections [154.320](#) *et seq.*, Mobile Homes and Mobile Home Parks;
- (7) Sections [154.355](#) *et seq.*, Off-Street Parking and Loading;
- (8) Sections [154.375](#) *et seq.*, Signs;



(9) Conditional Uses (see editor's note at end of chapter analysis);

(10) Sections [154.460](#) *et seq.*, Non-conforming Uses and Non-conforming Buildings;  
and

(11) Sections [154.480](#) *et seq.*, Administration and Enforcement.  
(Prior Code, § 24-59) (Ord. 97-15; Ord. 2001-41)

**§ 154.111 PURPOSE.**

The purpose of this subchapter is to establish a district designed and intended to accommodate uses such as offices for professional and personal services which can provide a transition area between residential uses and the more intense uses found in business districts, major thoroughfares and railroads.

(Prior Code, § 24-60) (Ord. 97-15; Ord. 2001-41)

**§ 154.112 PERMITTED USES.**

The following listed uses and no others are permitted uses in an OS-1 district:

(A) Banks, credit unions, savings and loan institution and other similar uses. Drive-up teller windows, cash stations and the like are permitted only as an accessory use;

(B) Churches, rectories and parish houses;

(C) Medical and dental offices, including clinics;

(D) Office buildings for business and professional offices;

(E) Off-street parking lots;

(F) Other uses as determined by the Plan Commission to be similar in design and intent to the above listed uses;

(G) Personal services including barber shops, beauty shops, health and fitness centers and other similar uses; and

(H) Accessory structures and uses customarily incidental to the above listed uses.  
(Prior Code, § 24-61) (Ord. 2001-10; Ord. 2001-41)

**§ 154.113 CONDITIONAL USES.**

In an OS-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein:

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(A) Any use customarily related to and providing service for an above listed permitted use such as: pharmacy or apothecary shop and an opticians shop;

(B) Funeral parlor or mortuary establishment; provided that, an adequately sized off-street assembly area for vehicles to be used in a funeral procession is provided which is in addition to the required off-street parking area;

(C) Publicly owned buildings, telephone exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations;

(D) Lodging rooms and dwelling units which are located above the first floor of a permitted office service use;

(E) Recycling drop-off centers; and

(F) Institutions for the care of patients such as: hospitals, sanitariums, long-term care and short-term care, rest and convalescent homes.  
(Prior Code, § 24-62) (Ord. 2001-10; Ord. 2001-41; Ord. 2002-10, § 4)

### § 154.114 PROHIBITED USES.

In an OS-1 district, the following uses are prohibited:

(A) Commercial retail establishments;

(B) Drive-in establishments;

(C) Outdoor storage of goods and materials;

(D) Warehousing; and

(E) Outdoor sales.

(Prior Code, § 24-63) (Ord. 97-15; Ord. 2001-41)

### § 154.115 MAXIMUM FLOOR AREA RATIO.

In an OS-1 district, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 1.0.

(Prior Code, § 24-64) (Ord. 97-15; Ord. 2001-41)

### § 154.116 MINIMUM FRONT YARDS.

In an OS-1 district, the regulations governing front yards in R-1 and R-2 districts, as set forth in [§ 154.051](#), shall apply.

(Prior Code, § 24-65) (Ord. 97-15; Ord. 2001-41)

**§ 154.117 MINIMUM SIDE YARDS.**

In an OS-1 district, the regulations governing side yards in R-1 and R-2 districts, as set forth in [§ 154.052](#), shall apply.  
(Prior Code, § 24-66) (Ord. 97-15; Ord. 2001-41)

**§ 154.118 MINIMUM REAR YARDS.**

In an OS-1 district, the regulations governing rear yards in R-1 and R-2 districts, as set forth in [§ 154.053](#), shall apply.  
(Prior Code, § 24-67) (Ord. 97-15; Ord. 2001-41)

**§ 154.119 MAXIMUM HEIGHT.**

In an OS-1 district, no building or structure shall exceed a height of 30 feet above grade.  
(Prior Code, § 24-68) (Ord. 97-15; Ord. 2001-41)

***OS-2 OFFICE SERVICE DISTRICTS***

**§ 154.120 USE AND BULK REGULATIONS IN OS-2 OFFICE SERVICE DISTRICTS.**

(A) Use and bulk regulations applying specifically to office service districts are set forth in this subchapter.

(B) Also applying to office service districts are additional regulations set forth in other subchapters and sections of this chapter as follows:

- (1) Section [154.004](#), Zoning districts, establishment and application;
- (2) Section [154.005](#), Rules and interpretation of district boundaries;
- (3) Section [154.006](#), General provisions and supplementary district regulations;
- (4) Section [154.007](#), Definitions;
- (5) Sections [154.295](#) *et seq.*, Planned Unit Development Districts;
- (6) Sections [154.320](#) *et seq.*, Mobile Homes and Mobile Home Parks;
- (7) Sections [154.355](#) *et seq.*, Off-Street Parking and Loading;
- (8) Sections [154.375](#) *et seq.*, Signs;
- (9) Conditional Uses (see editor's note at end of chapter analysis);
- (10) Sections [154.460](#) *et seq.*, Non-conforming Uses and Non-conforming Buildings;

and

(11) Sections [154.480](#) *et seq.*. Administration and Enforcement  
(Ord. 2016-39)

**§ 154.121 PURPOSE.**

The purpose of this subchapter is to establish a district designed and intended to accommodate uses such as offices for professional and personal services which can provide a transition area between residential uses and the more intense uses found in business districts, major thoroughfares and railroads.

(Ord. 2016-39)

**§ 154.122 PERMITTED USES.**

The following listed uses and no others are permitted uses in an OS-2 district:

(A) Banks, credit unions, savings and loan institution and other similar uses. Drive-up teller windows, cash stations and the like are permitted only as an accessory use;

(B) Churches, rectories and parish houses;

(C) Medical and dental offices, including clinics;

(D) Office buildings for business and professional offices;

(E) Off-street parking lots;

(F) Other uses as determined by the Plan Commission to be similar in design and intent to the above listed uses;

(G) Personal services including barber shops, beauty shops, health and fitness centers and other similar uses; and

(H) Accessory structures and uses customarily incidental to the above listed uses.  
(Ord. 2016-39)

**§ 154.123 CONDITIONAL USES.**

In an OS-2 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein:

(A) Any use customarily related to and providing service for an above listed permitted use such as: pharmacy or apothecary shop and an opticians shop;

(B) Funeral parlor or mortuary establishment; provided that, an adequately sized off-street assembly area for vehicles to be used in a funeral procession is provided which is in addition to

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the required off-street parking area;

(C) Publicly owned buildings, telephone exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations;

(D) Lodging rooms and dwelling units which are located above the first floor of a permitted office service use;

(E) Recycling drop-off centers; and Institutions for the care of patients such as: hospitals, sanitariums, long-term and short-term care, rest and convalescent homes.  
(Ord. 2016-39)

### § 154.124 PROHIBITED USES.

In an OS-2 district, the following uses are prohibited:

(A) Commercial retail establishments;

(B) Drive-in/drive-thru establishments;

(C) Outdoor storage of goods and materials;

(D) Warehousing; and

(E) Outdoor sales.

(Ord 2016-39)

### § 154.125 LOT STANDARDS.

Lot and Site Development Standards for each district dictate the minimum and/or maximum standards that apply to lots and sites within an Office Service District (OS-2)

(A) *Lot Area:* 1 acre minimum

(B) *Lot Width:* One hundred feet (100') minimum lot width is the allowable horizontal distance between the side property lines of a lot measured at eight angles to its depth along a straight line parallel to the front lot line at the front setback line.

(C) *Lot Frontage:* Fifty feet (50') on a public street. The minimum length of a lot frontage shall be measured between side lot lines at the street right-of-way or private street easement.

(D) *Lot Coverage:* Fifty-five percent (55%) maximum lot coverage for all primary and accessory structures, drives and parking.  
(Ord. 2016-39)

### § 154.126 MINIMUM YARD SETBACKS.

Yard setback requirements in an OS-2 are as follows:

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(A) *Front Yard Setback:* Minimum of thirty feet (30') from a local street/cul-de-sac, thirty-five feet (35') from a collector street and forty feet (40') from a major arterial. The horizontal space between the front lot line and the front setback line, extending to the side lines of the lot, generally parallel with and measured from the front lot line, defining the area in which no building or structure may be located above ground, except as provided herein.

Required front yards may include pedestrian walks, drives, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures. Required side and rear yards may include pedestrian walks, driveways, interior access driveways, interior access drives, off-street parking areas, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures.

(B) *Side Yard Setback:* Minimum forty feet (40'). The horizontal space between the side lot lines and the side setback lines, extending to the front and rear lot lines, generally parallel with and measured from each side lot line, defining the area in which no building or structure may be located above ground, except as provided herein. For corner and through lots, any side of a structure that faces a street shall meet front setback requirements.

(C) *Rear Yard Setback:* Minimum forty feet (40'). The horizontal space between the rear lot line and the rear setback line, extending to the side lines of the lot, generally parallel with and measured from the rear lot line, defining the area in which no building or structure may be located above ground except as provided herein. For through lots, the rear of the structure facing a street shall meet front setback requirements.

(D) *Naturally Sensitive Areas Setback:* Minimum forty foot (40') setback distance shall exist when structural development occurs on a lot that is adjacent to naturally sensitive areas including but not limited to riparian areas and wetlands. The City Planner, or his/her designee, may determine if a feature constitutes a naturally sensitive area. This setback shall overlap front, side, and rear setbacks. The setback with the largest width shall apply.

(Ord. 2016-39; §154.126(E) Removed by Ord. 2019-12, § 1)

### **§ 154.127 MAXIMUM HEIGHT.**

All building heights shall be defined as the vertical distance as measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof, and as follows:

(A) Maximum building height on lots/parcel/site less than twenty (20) acres shall not exceed thirty feet (30') in height.

(B) Maximum building height on lots/parcel/site twenty (20) acres or greater shall not exceed forth feet (40') in height.

(Ord. 2016-39; Ord. 2019-12, § 2)

### **§ 154.128 REMOVED.**

(Ord. 2016-39; Removed by Ord. 2019-12, § 3)

***B-1 NEIGHBORHOOD BUSINESS DISTRICTS***

**§ 154.130 USE AND BULK REGULATIONS IN ALL BUSINESS DISTRICTS.**

(A) Use and bulk regulations applying specifically to all business districts are set forth in this subchapter.

(B) Also applying to business districts are additional regulations set forth in other subchapters and sections of this chapter as follows:

- (1) Section [154.004](#), Zoning districts, establishment and application;
- (2) Section [154.005](#), Rules and interpretation of district boundaries;
- (3) Section [154.006](#), General provisions and supplementary district regulations;
- (4) Section [154.007](#), Definitions;
- (5) Sections [154.295](#) *et seq.*, Planned Unit Development Districts;
- (6) Sections [154.320](#) *et seq.*, Mobile Homes and Mobile Home Parks;
- (7) Sections [154.355](#) *et seq.*, Off-Street Parking and Loading;
- (8) Sections [154.375](#) *et seq.*, Signs;
- (9) Conditional Uses (see editor's note at end of chapter analysis);
- (10) Sections [154.460](#) *et seq.*, Non-conforming Uses and Non-conforming Buildings;

and

(11) Sections [154.480](#) *et seq.*, Administration and Enforcement.  
(Prior Code, § 24-72) (Ord. 97-15; Ord. 2001-41)

**§ 154.131 PURPOSE.**

The purpose of this subchapter is to establish a district designed and intended to accommodate retail, service, office and other miscellaneous uses and conditional uses which are most compatible with uses typically found in residential neighborhoods.  
(Prior Code, § 24-73) (Ord. 97-15; Ord. 2001-41)

**§ 154.132 LIMITATIONS OF USE.**

Permitted uses in the B-1 district are subject to the following additional general limitations:

- (A) Dwelling units are not permitted below the second floor;

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(B) All business establishments shall be retail or service establishments dealing directly with consumers;

(C) Business establishments classified as “retail and service” hereinafter are restricted to a maximum gross floor area of 12,500 square feet each, exclusive of any floor area devoted to off-street parking or loading facilities;

(D) All permitted uses in this district shall be conducted in completely enclosed buildings, except for off-street parking and loading; and

(E) Establishments of a “drive-in” type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except for such services which are clearly incidental to a principal permitted use.  
(Prior Code, § 24-74) (Ord. 97-15; Ord. 2001-41)

### § 154.133 PERMITTED USES.

The following listed uses and no others are permitted uses in a B-1 district:

(A) Retail and service uses as follows:

- (1) Antique shops;
- (2) Apparel stores;
- (3) Art and school supply stores;
- (4) Art galleries;
- (5) Bakeries;
- (6) Banks and financial institutions;
- (7) Barber shops;
- (8) Beauty shops and hair styling salons;
- (9) Book and stationery stores;
- (10) Camera and photographic supply stores;
- (11) Carpet, rug, linoleum and tile stores;
- (12) China and glassware stores;
- (13) Coin and philatelic stores;
- (14) Custom dressmaking and millinery shops;
- (15) Dairy, ice cream and candy shops;



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- (16) Delicatessens;
- (17) Department stores;
- (18) Drug stores or convenience pharmacy;
- (19) Dry cleaning and laundry receiving stations;
- (20) Dry goods stores;
- (21) Electric, household appliance, television and radio stores;
- (22) Florist shops and conservatories;
- (23) Grocery or convenience stores;
- (24) Furrier shops, including storage;
- (25) Upholstering shops;
- (26) Garden supply and seed stores;
- (27) Gift shops;
- (28) Haberdashery stores;
- (29) Hardware stores;
- (30) Hobby stores;
- (31) Interior decorating shops;
- (32) Jewelry stores, including watch repairs;
- (33) Laundries and dry cleaners, automatic, self-service coin operated;
- (34) Leather goods and luggage stores;
- (35) Liquor stores, package goods only, not for consumption on premises;
- (36) Loan offices;
- (37) Locksmith shops;
- (38) Medical and dental clinics;
- (39) Musical instrument stores, including servicing;
- (40) Office supply stores;

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- (41) Optician shops;
- (42) Paint and wallpaper stores;
- (43) Planned unit developments, business;
- (44) Restaurants;
- (45) Schools, including music, dance or business;
- (46) Sewing machine stores, household machines only;
- (47) Shoe and hat repair shops;
- (48) Shoe stores;
- (49) Sporting goods stores;
- (50) Tailor shops;
- (51) Telegraph and facsimile offices;
- (52) Tobacco shops; and
- (53) Variety stores.

(B) Offices, business and professional;

(C) Miscellaneous uses, as follows:

- (1) Clubs and lodges (non-profit), fraternal or religious institutions;
- (2) Electric and gas utilities;
- (3) Meeting halls;
- (4) Post offices;
- (5) Public libraries;
- (6) Radio and television broadcasting; and
- (7) Signs, as classified and regulated herein.

(D) Residential uses. In a B-1 district, lodging rooms and dwelling units are permitted if business uses occupy the first floor of the same building; and

(E) Uses incidental to principal permitted uses, as follows:

- (1) Accessory uses;

- (2) Home occupations; and
- (3) Temporary construction buildings.  
(Prior Code, § 24-75) (Ord. 97-15; Ord. 2001-41)

**§ 154.134 CONDITIONAL USES.**

In a B-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein:

- (A) Churches;
- (B) Convents, monasteries, rectories and parish houses;
- (C) Municipal and privately-owned recreation buildings or community centers;
- (D) Parking lots and parking garages other than accessory, for vehicles not exceeding 1-1/2 ton capacity;
- (E) Parks and playgrounds;
- (F) Philanthropic institutes;
- (G) Public utility and public service uses;
- (H) Recycling drop-off centers;
- (I) Nursing homes, convalescent homes and residential facilities for long or short-term care; and
- (J) Undertaking establishments and funeral parlors.  
(Prior Code, § 24-76) (Ord. 97-15; Ord. 2001-41; Ord. 2002-10, § 4)

**§ 154.135 MAXIMUM FLOOR AREA RATIO.**

In a B-1 district, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 1.5.  
(Prior Code, § 24-77) (Ord. 97-15; Ord. 2001-41)

**§ 154.136 TRANSITIONAL YARDS.**

Where a B-1 district adjoins a residence district at a side or rear lot line, transitional yards shall be provided as follows.

- (A) In a B-1 district where a side lot line coincides with a side or rear lot line of property in an adjacent residence district, a yard shall be provided along the side lot line. The yard shall be equal in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in a residence district.

(B) In a B-1 district where a rear lot line coincides with a side lot line of property in an adjacent residence district, a yard shall be provided along the rear lot line. The yard shall be equal in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in a residence district.

(C) In a B-1 district where a rear lot line coincides with a rear lot line of property in an adjacent residence district, a yard shall be provided along the rear lot line. The yard shall be at least 20 feet in depth.

(D) In a B-1 district where the extension of a front or side lot line coincides with a front lot line of an adjacent lot in a residence district, a yard equal in depth to the minimum front yard required by this chapter on the adjacent lot in the residence district shall be provided along the front or side lot line for a distance of at least 50 feet from the lot in a residence district.

(E) Transitional yards shall be unobstructed from ground level to sky except as otherwise provided in [§ 154.006](#).  
(Prior Code, § 24-78) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.137 RESIDENTIAL REAR YARDS.**

In a B-1 district, a rear yard shall be provided for residential uses located above the first floor. The yard shall be not less than 30 feet in depth and begin at a level no higher than that of the finished floor of the lowest residential unit. Required rear yards shall be unobstructed from ground level to sky except as otherwise provided in [§ 154.006](#).  
(Prior Code, § 24-79) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.138 RESIDENTIAL MINIMUM LOT SIZE.**

In a B-1 district, for every dwelling unit hereafter established, there shall be provided a minimum of 1,200 square feet of lot area; except, that for every efficiency dwelling unit hereafter established, there shall be provided a minimum of 800 square feet of lot area, and for every lodging room hereafter established there shall be provided a minimum of 600 square feet of lot area.  
(Prior Code, § 24-80) (Ord. 97-15; Ord. 2001-41)

### ***B-2 CENTRAL BUSINESS DISTRICTS***

#### **§ 154.150 PURPOSE.**

The purpose of this subchapter is to establish a district designed and intended to accommodate retail, service, office and other miscellaneous uses and conditional uses which are most compatible with uses typically found in downtown business districts contained within a concentrated area and offering a broad range of uses.

(Prior Code, § 24-81) (Ord. 97-15; Ord. 2001-41)

**§ 154.151 LIMITATIONS OF USE.**

Permitted uses in the B-2 district are subject to the following additional general limitations:

(A) Dwelling units are not permitted below the second floor, on lots which contain a business use;

(B) All business establishments shall be retail or service establishments dealing directly with consumers, except for wholesale establishments where storage of merchandise is limited to samples;

(C) All permitted uses in this district shall be conducted in completely enclosed buildings, except for off-street parking and loading. Outdoor sales of retail items may be sold only if:

(1) The sale takes place on the same property where a permanent retail business is located;

(2) The items sold are among the permitted uses listed for this district;

(3) The items are sold by the same owner or operator of the permanent business;

(4) The outdoor sales shall not result in the lack of compliance with any other required provision of this chapter, such as setback, parking and the like;

(5) The outdoor sale is a temporary, infrequent activity, approved by the Hobart Board of Public Works and Safety.

(D) Establishments of a “drive-in” type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except for the services which are clearly incidental to a principal permitted use.

(Prior Code, § 24-82) (Ord. 97-15; Ord. 2001-41)

**§ 154.152 PERMITTED USES.**

The following listed uses and no others are permitted uses in a B-2 district:

(A) Any use permitted in a B-1 district as set forth in [§ 154.133](#);

(B) Additional retail and service uses, as follows:

(1) Employment agencies;

(2) Machinery sales rooms, excluding repair or servicing. The storage and display of machinery, except for household appliances and office machines such as typewriters and computers, shall be restricted to new floor samples;

(3) Pet shops;

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(4) Physical culture and health spas, privately owned and operated. The centers may include gymnasiums, swimming pools, reducing salons, karate and judo studios and the like;

(5) Picture framing establishments;

(6) Radio and television sales, repair and service shops;

(7) Restaurants and taverns, including live entertainment and dancing and the service of liquor in conjunction therewith;

(8) Theaters, except for drive-in theaters;

(9) Ticket agencies and travel bureaus;

(10) Convenience printing establishments;

(11) Newspaper offices;

(12) Clothing/costume rental shop;

(13) Pawn shops; and

(14) Photograph developing and processing shops.

(C) Miscellaneous uses, as follows:

(1) Laboratories, including medical and dental, research and testing; and

(2) Restricted production and repair, limited to the following: Art needle-work and hand weaving; clothing, custom manufacturing and altering for retail only; jewelry; watches; dentures; optical lenses; shoes; and other similar craft and professional services.

(D) Residential uses: In a B-2 district, single-family dwelling units are permitted on blocks on which the current frontage is at least 50% single-family residential, and must satisfy the requirements of the R-2 District.

(E) Brewpub  
(Ord. 2012-38, § 2)

(Prior Code, § 24-83) (Ord. 97-15; Ord. 2001-41)

### § 154.153 CONDITIONAL USES.

In a B-2 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein: Any use allowed as a conditional use in a B-1 district as set forth in [§ 154.134](#).  
(Prior Code, § 24-84) (Ord. 97-15; Ord. 2001-41)

### § 154.154 MAXIMUM FLOOR AREA RATIO.

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In a B-2 district, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 3.0.  
(Prior Code, § 24-85) (Ord. 97-15; Ord. 2001-41)

### **§ 154.155 TRANSITIONAL YARDS.**

In a B-2 district, regulations governing transitional yards in a B-1 district as set forth in [§ 154.136](#) shall apply.  
(Prior Code, § 24-86) (Ord. 97-15; Ord. 2001-41)

### **§ 154.156 RESIDENTIAL REAR YARDS.**

In a B-2 district, regulations governing residential rear yards in a B-1 district as set forth in [§ 154.137](#) shall apply.  
(Prior Code, § 24-87) (Ord. 97-15; Ord. 2001-41)

### **§ 154.157 RESIDENTIAL MINIMUM LOT SIZE.**

In a B-2 district, for every dwelling unit hereafter established there shall be provided a minimum of one 500 square feet of lot area; except, that for every efficiency dwelling unit hereafter established, there shall be provided a minimum of 350 square feet of lot area, and for every lodging room hereafter established there shall be provided a minimum of 250 square feet of lot area.  
(Prior Code, § 24-88) (Ord. 97-15; Ord. 2001-41)

## ***B-3 HIGHWAY ORIENTED BUSINESS DISTRICTS***

### **§ 154.170 PURPOSE.**

The purpose of this subchapter is to establish a district designed and intended to accommodate retail, service, office and other miscellaneous uses and conditional uses which are most compatible with uses typically located along minor and major arterial local roads and county, state and federal highways. Access is provided to customers arriving in vehicles.  
(Prior Code, § 24-89) (Ord. 97-15; Ord. 2001-41)

### **§ 154.171 LIMITATIONS OF USE.**

Permitted uses in the B-3 district are subject to the following additional general limitations.

(A) Dwelling units and lodging rooms other than those located in a transient hotel or motel are not permitted.

(B) All businesses, services, processing or storage shall be conducted in completely

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enclosed buildings unless the open storage is a minimum of 150 feet from any residential district, and then only if the open storage is completely invisible by reason of a wall or opaque fence, or as otherwise indicated hereafter, and except when establishments of the “drive-in” type offer goods and services directly to customers waiting in parked motor vehicles.

(C) Outdoor sales of retail items may be sold only if:

- (1) The sale takes place on the same property where a permanent retail business is located;
- (2) The items sold are among the permitted uses listed for this district;
- (3) The items are sold by the same owner or operator of the permanent business; and
- (4) The outdoor sales shall not result in the lack of compliance with any other required provision of this chapter, such as setback, parking and the like.

(D) Temporary storage containers are permitted in a B-3 district under the following conditions.

- (1) Only finished goods ready for sale may be stored in containers; and then only if the merchandise is owned by the occupant of the permanent structure on the same site.
- (2) Raw materials, construction tools and materials, chemicals, parts requiring assembly, explosives or flammables are prohibited from being stored in the containers.
- (3) Material stored in the containers shall not be sold until relocated to an approved permanent structure on the same site.
- (4) Containers shall be located in the side or rear yard of lots and shall be the subject of a site plan approval by the Plan Commission before being located.
- (5) Containers shall not be located so as to reduce required parking spaces below code requirements.
- (6) The maximum volume of any single temporary storage container shall be 100 cubic yards.
- (7) The maximum height of temporary storage containers, measured from the average elevation of the surface on which it rests, shall be 9 feet.
- (8) Containers must be placed on a hard surface consisting of either portland cement, concrete or asphalt.
- (9) The maximum duration of any single container shall be 60 calendar days.
- (10) The number of temporary storage containers per independent business shall be based on the gross sale floor area of the store. Each independent business shall be permitted 1 container. One additional container is permitted for every 5,000 square feet of gross sale floor area.



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(11) No more than 10 containers per independent business shall be located on any lot at the same time regardless of the gross sale floor area.

(12) A maximum of 2 requests for temporary storage containers may be approved in any calendar year for the same site.

(13) In the event the container is located on property adjacent to residential property, the Plan Commission may require fencing, landscaping, berming or a combination, to adequately buffer the negative visual impact of the containers.  
(Prior Code, § 24-90) (Ord. 97-15; Ord. 2001-41; Ord. 2003-03, § 2)

### § 154.172 PERMITTED USES.

The following listed uses and no others are permitted uses in a B-3 district:

(A) Any use permitted in a B-2 district as set forth in [§ 154.152](#) except dwelling units, churches, parks, playgrounds;

(B) Additional retail and service uses, as follows:

(1) Ambulance services;

(2) Amusement establishments, including miniature golf, video game parlors, pool halls and other similar uses;

(3) Animal hospitals, pounds and shelters; provided that all activities that take place for the care and boarding of animals, except for exercise runs, shall be conducted in completely enclosed buildings;

(4) Auctions;

(5) Automobile accessory stores;

(6) Automobile service stations or filling stations; provided that, no automobile service station shall be hereafter erected except on a lot on the corner of an intersection of 2 streets, or on a lot situated on a corner where one street runs into another at a "T" intersection. In such instances, the lot on which the service station is located shall have not less than 75 feet frontage on 1 street and not less than 100 feet frontage on the other street. The service stations shall have entrances from each street on which the lot fronts;

(7) Battery, brake and tire sales and service stations;

(8) Bicycle stores, including rental and repair;

(9) Blueprinting and photostating establishments;

(10) Boat sales, motor and sail, including servicing and repairs conducted in conjunction therewith;

(11) Car washes and auto laundries;

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- (12) Caskets and casket supplies;
- (13) Clothing and costume rental shops;
- (14) Dry cleaning plants;
- (15) Exterminating shops;
- (16) Feed and seed stores;
- (17) Frozen food lockers;
- (18) Greenhouses and nurseries;
- (19) Commercial laundries;
- (20) Linen, towel, diaper and other similar services;
- (21) Live bait stores;
- (22) Machinery sales;
- (23) Mobile home sales;
- (24) Monument sales;
- (25) Motor home sales, camper and motor vehicle trailer sales;
- (26) Motor vehicle sales, including servicing and repairs conducted in conjunction therewith;
- (27) Motorcycle sales, including servicing and repairs conducted in conjunction therewith;
- (28) Orthopedic, medical and surgical supply stores;
- (29) Parking lots, open and other than accessory for the storage of private passenger automobiles;
- (30) Plumbing, electric and other building material showrooms/sales;
- (31) Restaurant, hotel and bar fixture stores;
- (32) Second hand stores and rummage shops;
- (33) Taxidermists shops;
- (34) Truck stops, including the sale of fuel, truck washing, food and supplies;
- (35) Undertaking establishments and funeral parlors;

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(36) Lumberyards;

(37) Roofing materials sales; and

(38) Mini-warehouses intending to serve residential or retail material wholly enclosed in a building, totally surrounded by an opaque fence and decorative landscaping approved by the Plan Commission.

(Ord. 94-67)

(C) Public and community service uses, as follows:

(1) Libraries;

(2) Police stations;

(3) Fire stations; and

(4) Other such public uses.

(D) Residential uses, as follows: Motels and transient hotels.

(Prior Code, § 24-91) (Ord. 97-15; Ord. 2001-41)

### § 154.173 CONDITIONAL USES.

In a B-3 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein:

(A) Any use allowed as a conditional use in a B-2 district as set forth in [§ 154.153](#); and

(B) Additional conditional uses, as follows:

(1) Advertising signs (billboards); and

(2) Outdoor amusement establishments, fairgrounds, picnic groves, kiddie parks and other similar amusement centers, including stadiums and arenas.

(Prior Code, § 24-92) (Ord. 97-15; Ord. 2001-41)

### § 154.174 MAXIMUM FLOOR AREA RATIO.

In a B-3 district, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 5.0.

(Prior Code, § 24-93) (Ord. 97-15; Ord. 2001-41)

### § 154.175 TRANSITIONAL YARDS.

In a B-3 district, regulations governing transitional yards in a B-1 district, as set forth in [§](#)

[154.136](#), shall apply.  
(Prior Code, § 24-94) (Ord. 97-15; Ord. 2001-41)

**§ 154.176 RESIDENTIAL REAR YARDS.**

In a B-3 district, regulations governing residential rear yards in a B-1 district, as set forth in [§ 154.137](#), shall apply.  
(Prior Code, § 24-95) (Ord. 97-15; Ord. 2001-41)

**§ 154.177 RESIDENTIAL MINIMUM LOT SIZE.**

In a B-3 district, regulations governing residential minimum lot size in a B-2 district, as set forth in [§ 154.157](#), shall apply for all residential uses.  
(Prior Code, § 24-96) (Ord. 97-15; Ord. 2001-41)

**§ 154.178 OPEN LOT SELLING.**

(A) *Purpose.* The purpose of this is intended to allow retail establishments the flexibility to sell seasonal items merchandise or service as an open lot venue, providing that the retail establishments comply with all provisions and requirements provided herein and of the Hobart Municipal Code.

(B) *Limitation.*

(1) Local retail establishments, in possession of real property and in conjunction with the sale of personal property identified as seasonal items or provide amusement/educational event may operate as an open lot selling, and where permit fees are waived.

(2) Guest retail establishments, not in possession of real property, with the intent to sell personal property identified as seasonal items or provide amusement/educational events, may operate as open lot selling and are subject to permit fees and where appropriate must provide; retail merchants certificate/license, state EIN, sales tax certification, business insurance, and when applicable, weights and measures label certification, or any additional verification/qualifications from appropriate agency granting business recognition.

(C) *Definitions.*

**OPEN LOT SELLING.** Any business activity that is not carried on within the building, which houses the business's main operations, including an activity which is carried on within an accessory building, temporary building or temporary structure.

**PERSONAL PROPERTY.** Any interests of movable business property from one location to another consisting of goods, service, inventory and product.

**REAL PROPERTY.** Any interests of real estate ownership of immovable property including the land and buildings.

**SEASONAL ITEMS.** Any item, good or service, offered for sale by a business primarily for

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a limited period of time or in quantities substantially greater for a limited period of time, than are offered in the usual course of business.

(D) *Restrictions.* Open lot selling of seasonal items shall be permitted subject to the following.

(1) Open lot selling shall only be permitted in the B-3, B-2 and Business PUD Zoning Districts.

(2) Open lot selling shall not infringe on the side, front or rear yards required by this chapter or encroach closer to residential property than the existing building.

(3) Any temporary building, structure or similar facility used in open lot selling shall meet all city requirements for temporary structures. They must be dismantled and removed from the site within 3 business days of the expiration of the permit.

(4) Any temporary building, structure or similar facility used in open lot selling shall have the perimeter of the selling area screened or buffered from the roadway and abutting property by living or artificial landscaping. Landscaping screening shall be developed as to prevent viewing of the product display area. The plan for the screening or buffering shall be submitted with the request for the permit, and shall be approved by the Zoning Official upon showing of reasonableness to meet the intent of the ordinance.

(5) Prior to the sale of merchandise or public occupancy, authorized inspectors will conduct on site reviews and when appropriate, provide release forms.

(6) Open lot selling shall not infringe on fire lanes, impede access of emergency vehicles or create any fire hazard under the Hobart Municipal Code or applicable fire safety regulations.

(7) Open lot selling shall not create a traffic or safety hazard under the Hobart Municipal Code.

(8) Open lot selling shall only be permitted as an accessory use to an existing properly conducted business.

(9) Submission of a site plan that identify: length, width and height of all proposed and existing structures; vehicle and pedestrian circulation; parking locations; setback and aisle dimensions.

(10) Signs are deemed temporary signs and must obtain a business special event sign permit. Signs are permitted facing each platted frontage for the duration of the described event/sale, not to exceed 45 square feet per sign.

(11) A merchandise list shall be submitted which describes what the applicant intends to offer for sale.

(12) Open lot selling, local retail establishment, of any one seasonable item shall be permitted for no more than 8 continuous weeks. A business shall not conduct open lot selling for more than 16 weeks per year. Guest retail establishments or any seasonable item shall be permitted for no more than 14 day per year.

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(13) Each period of open lot selling shall require a separate permit application fee and inspection fee.

(14) A business wishing to engage in open lot selling shall first obtain a permit for open lot selling on forms prescribed by the Building Department. A business shall not be issued more than 3 permits per year for open lot selling. The form within the ordinance codified herein for permit application is hereby approved for use.

(15) The City Clerk-Treasurer shall collect an application fee, an inspection fee and a service fee per day set out in the Fee Schedule of this code in connection with each quest retail establishment application for an open lot selling permit or sale of seasonal item.

(16) Businesses, as identified on the approved permit shall comply with the provisions of this section, any falsification or abridge of supporting documents of this permit shall be construed as a breach or denial of this application and shall be refused, withhold or revoked.

(17) Any person, firm and corporation who violates, disobeys, omits, neglects or refuses to comply with the provisions of this section within 3 days after notification of the violation shall, upon conviction, be fined not less than \$250 and not more than \$1,000 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. The fees and penalty shall be codified in the schedule of fees set out in the Hobart Municipal Code.

(18) All documents attached herein after city approval shall be displayed at each open lot selling area, sale of seasonal items location or amusement/educational site.  
(Prior Code, § 24-97) (Ord. 94-62; Ord. 97-15; Ord. 2001-41; Ord. 2007-02, § 1)

### ***PBP PLANNED BUSINESS PARK DISTRICTS***

#### **§ 154.190 PURPOSE.**

The purpose of this subchapter is to establish a district designed and intended to accommodate retail, service, production, processing, cleaning, repair, testing, wholesaling and warehousing uses, and other miscellaneous uses and conditional uses which are most compatible with uses typically located with access to major highways, expressways and railroads. Care is taken to insure minimal land use and traffic conflicts and to provide adequate separation from residences.

(Ord. 2003-07, § 1)

#### **§ 154.191 LIMITATIONS OF USE.**

Permitted uses in the PBP district are subject to the following additional general limitations.

(A) Dwelling units are not permitted.

(B) All businesses, services, processing or storage shall be conducted in completely enclosed buildings unless outside/outdoor sales, displays, and storage complies with the indicated

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regulation hereafter.

(C) Outside/outdoor sales, displays, and storage, all planned business park uses, services, processing or storage shall be conducted in completely enclosed buildings; except when outside/outdoor sales, and displays are in conjunction with “drive-in /drive-thru” establishments type use offering goods and services directly to customers waiting in parked motor vehicles; and shall be in compliance with open lot selling regulations when applicable.

(Ord. 2019-13, § 1)

(1) Outside/outdoor sales, displays, and storage is a minimum of one hundred fifty feet (150’) from any residential district, and then only if the open storage is completely non-visible by reason of a wall or opaque fence, or as otherwise indicated hereafter.

(2) Outside/outdoor sales, displays, and storage approved and documented permanent outdoor sales, display, and storage areas shall be permitted accessory uses, tied to the primary use and in compliance with the following regulations and open lot selling when applicable.

(Ord. 2019-13, § 2)

(3) Outside/outdoor sales, displays, and storage shall not be located in any setbacks, easements, right-of-way, or off-street parking or loading service areas.

(4) Outside/outdoor sales, displays, and storage shall be located behind the front or exterior wall of the main building facing any street and when applicable shall comply with all lot requirements in HMC [§154.307](#).

(5) Outside/outdoor sales, displays, and storage shall not cover more than five percent (5%) of the lot area or an area in excess of twice the ground floor area of the main building on the lot, whichever is less.

(6) Outside/outdoor sales, displays, and storage shall be screened according to the provisions of this Section.

(7) No outside/outdoor sales, displays, and storage shall occur within any right-of-way.

(8) Outside/outdoor sales, displays, and storage areas, regardless of size, shall be hard-surfaced, dustfree pavement. The pavement type and thickness shall be reviewed at the Site Plan Review Committee prior to obtaining Plan Commission approval, taking into consideration soil conditions and traffic loading. Pervious pavements and pavers including durable materials, suitable for parking such as cobblestones, brick, concrete formed blocks or cut stone, the system of which is specifically installed and designed for vehicular loads shall also be considered. Sales and display areas shall be concrete, asphaltic pavement, or other permanent paving material and shall be maintained in good condition.

(a) The maximum area for outdoor sales and display shall not exceed ten percent (10%) of the primary structure or primary tenant space.

(b) Every approved permanent outdoor sales and display area shall be within twenty feet (20’) of the primary structure.

(c) Screening shall be provided for outdoor sales and display area that are greater than five hundred square feet (500) in size to reduce visibility of the outdoor sales and displays

from the parking lot and primary roadways by installing a minimum twenty-four inch (24") opaque wall constructed from the same building material as the primary structure, and integrated into the design of the primary structure. The wall may be topped with a transparent fence.

(d) Outdoor sale and display of merchandise within an area of five hundred (500) square feet or less shall not block handicapped parking areas, parking lot access aisles, and shall maintain a forty-two inch (42") clearance on all sidewalks.

(9) A Type 1 landscaped buffer yard as described in HMC §154.423(F) may also be used. Plant material may be clustered for better view of displays.  
(Ord. 2019-13, § 3)

(10) *Screening.* Outdoor storage of the types described below shall be screened with an opaque fence, split face block wall, continuous evergreen screen, or a combination of the three. The screen must measure a minimum of eight feet (8') in height. The fences or walls shall be compatible with or constructed from the same building material as the primary structure, and integrated into the design of the primary structure.

(11) *Storage in Required Setbacks.* No portion of any setback shall be used for permanent storage except during construction and in accordance with the terms of this section.

(D) Bulk Storage for any use in which bulk storage is permitted for structures, buildings or aboveground tanks used for bulk storage of flammable or explosive liquids, gases or other material and meet screening requirements in HMC [§154.204](#)(A)(1).

(1) Bulk Storage shall not be located closer than fifty feet (50') to the property line.

(2) Bulk Storage shall be enclosed within an opaque fence, or equivalent, of not less than eight feet (8') high, except as otherwise required by HMC [§154.191](#)(B)(C)(E) Outdoor Sales, Display, and Storage Standards (this section).

(3) Bulk Storage Lots shall be screened according to the provisions of this Section.

(E) However, open off-street loading facilities and open off-street parking of employee, customer/consumer motor vehicles may be unenclosed, except for the screening of parking and loading facilities as may be required under the provisions as set forth herein.  
(Ord. 2003-07, § 1; Ord. 2016-30, § 1)

### **§ 154.192 PERMITTED USES.**

The following listed uses and no others are permitted uses in a PBP district:

(A) Retail and service uses, as follows:

(1) Automobile service stations or filling stations; provided that, no automobile service station shall be hereafter erected except on a lot on the corner of an intersection of 2 streets, or on a lot situated on a corner where 1 street runs into another at a "T" intersection. In such instances the lot on which the service station is located shall have not less than 75 feet frontage on 1 street and not less than 100 feet frontage on the other street. The service stations shall have entrances from each street on which the lot fronts;



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- (2) Battery, brake and tire sales and service stations;
- (3) Bicycle stores, including rental and repair;
- (4) Blueprinting and photostating establishments;
- (5) Boat sales, motor and sail, including servicing and repairs conducted in conjunction therewith;
- (6) Building materials, sales;
- (7) Car washes and auto laundries;
- (8) Cartage and express facilities, including moving companies and storage therein;
- (9) Contractor and construction shops;
- (10) Dry cleaning;
- (11) Feed and seed stores;
- (12) Frozen food lockers;
- (13) Garages, model display and sales;
- (14) Greenhouses and nurseries;
- (15) Linen, towel, diaper and other similar services;
- (16) Lumberyards;
- (17) Machinery sales;
- (18) Mini-warehouses intending to serve residential or retail material wholly enclosed in a building, surrounded by an opaque fence and decorative landscaping approved by the Plan Commission;
- (19) Mobile home sales and house trailer sales;
- (20) Motorcycle sales, including servicing and repairs conducted in conjunction therewith;
- (21) Motor vehicle sales, including storage, servicing and repairs;
- (22) Office and household equipment and machinery, sales and service;
- (23) Orthopedic, medical and surgical supply stores;
- (24) Parking garages and parking lots, other than accessory;

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- (25) Planned unit developments, industrial;
- (26) Plumbing, electric and other building material showrooms/sales; and
- (27) Roofing materials sales.

(B) Production, processing, cleaning, testing and repair, as follows:

- (1) Advertising displays;
- (2) Art needlework and hand weaving;
- (3) Awnings, draperies and venetian blinds;
- (4) Commercial bakeries;
- (5) Beverages, non-alcoholic;
- (6) Ornamental ironworks;
- (7) Boat building and boat repairs of pleasure craft and other small craft, but not including shipbuilding or shop repairs;
- (8) Book binding and tooling, hand and machine worked;
- (9) Bottling works, beverage;
- (10) Brushes and brooms;
- (11) Cameras and other photographic equipment and supplies;
- (12) Canvas and canvas products;
- (13) Ceramic products such as pottery and glazed tile;
- (14) Children's bicycles, wagons and baby carriages;
- (15) Clothing;
- (16) Commercial dry cleaning;
- (17) Commercial laundries;
- (18) Cosmetics and toiletries;
- (19) Data processing, hardware and software;
- (20) Dentures;
- (21) Drugs, compounding only;

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- (22) Electrical appliances, such as fixtures, home appliances and toys;
- (23) Electrical equipment assembly, such as television, radio and computer;
- (24) Electrical supplies, manufacture and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries;
- (25) Food products, (except for meat or fish), processing and combining of, including baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing and pressing;
- (26) Hosiery;
- (27) Ink mixing and packaging, and inked ribbons;
- (28) Jewelry;
- (29) Laboratories, medical, dental, research, experimental and testing; provided that, there is no danger from fire or explosion, nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences;
- (30) Luggage;
- (31) Machine shops for tool die and pattern making;
- (32) Musical instruments;
- (33) Orthopedic and medical appliances, such as artificial limbs braces, supports and stretchers;
- (34) Paper products, small items such as envelopes and stationery, bags, boxes, tubes and wallpaper;
- (35) Perfumes and perfumed soaps, compounding only;
- (36) Pharmaceutical products, compounding only;
- (37) Precision instruments such as optical, medical, testing and measuring;
- (38) Printing and newspaper publishing, including engraving and photoengraving;
- (39) Repair of household and office equipment;
- (40) Silverware, plate and sterling;
- (41) Soap and detergents, packaging only;
- (42) Sporting and athletic equipment such as balls, baskets, bats, cues, gloves racquets and rods;
- (43) Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations;

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(44) Textiles, including spinning, weaving, manufacturing, dyeing, printing, knit goods, yarn, thread and cordage, but not including textile bleaching;

(45) Tobacco curing and manufacturing of tobacco products;

(46) Tools and hardware such as bolts, nuts and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks, nonferrous metal castings and plumbing appliances and fixtures;

(47) Toys;

(48) Umbrellas;

(49) Upholstering (bulk), including mattress manufacturing and rebuilding and renovating furniture;

(50) Watches; and

(51) Wood products, such as furniture, boxes, crates, baskets, pencils and cooperage works.

(C) Wholesaling and warehousing;

(D) Public and community service uses, as follows:

(1) Libraries;

(2) Police stations;

(3) Fire stations;

(4) Post offices;

(5) Publicly owned facilities and utilities;

(6) Private utilities providing service to the public; and

(7) Similar uses as determined by the Plan Commission.

(E) Miscellaneous uses, as follows:

(1) Radio and television towers;

(2) Signs, as regulated herein;

(3) Clubs and lodges (non-profit), fraternal or religious institutions;

(4) Meeting halls;

(5) Radio and television broadcasting;

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- (6) Personal communications structures;
- (7) Photograph developing and processing shops;
- (8) Ambulance services; and

(9) Animal hospitals, pounds and shelters; provided that, all activities that take place for the care and boarding of animals, except for exercise runs, shall be conducted in completely enclosed buildings.

(F) Uses incidental to permitted uses, as follows:

(1) Accessory uses; and

(2) Temporary buildings or structures for construction purposes, for a period not to exceed the duration of the construction.

(Ord. 2003-07, § 1)

### § 154.193 CONDITIONAL USES.

In a PBP district, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein:

(A) Establishments engaged in production, processing, cleaning testing or repair other than those specifically listed as permitted uses in PBP districts, but not including any use first listed as permitted in an M-1 district;

(B) Airports and heliports;

(C) Bus terminals;

(D) Stadiums, auditoriums and arenas;

(E) Theaters, automobile drive-in;

(F) Recycling drop-off centers; and

(G) Recycling stations.

(Ord. 2003-07, § 1)

### § 154.194 LOT STANDARDS.

Lot Standards for each district dictate the minimum and/or maximum standards that apply to lots within a Planned Business Park District (PBP).

(A) *Minimum Lot Area:* 3 acres.

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(B) *Minimum Lot Width:* One hundred twenty-five feet (125'). The minimum lot width is the allowable horizontal distance between the side property lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the front setback line.

(C) *Minimum Lot Frontage:* Sixty feet (60') on a public street. The minimum length of a lot frontage shall be measured between side lot lines at the street right-of-way or private street easement.

(D) *Maximum Lot coverage:* Sixty-five percent (65%) for all primary and accessory structures, drives and parking.  
(Ord. 2003-07, § 1; Ord. 2016-30, § 2)

### § 154.195 YARDS / SETBACKS.

(A) *Front:* Minimum of thirty-five feet (35') from a local street/cul-de-sac, forty feet (40') from a collector street and forty-five feet (45') from a major arterial. The horizontal space between the front lot line and the front setback line, extending to the side lines of the lot, generally parallel with and measured from the front lot line, defining the area in which no building or structure may be located above ground, except as provided herein.

Required front yards may include pedestrian walks, drives, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures. Required side and rear yards may include pedestrian walks, driveways, interior access driveways, interior access drives, off-street parking areas, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures.

(B) *Side:* Minimum thirty-five feet (35'). The horizontal space between the side lot lines and the side setback lines, extending to the front and rear lot lines, generally parallel with and measured from each side lot line, defining the area in which no building or structure may be located above ground, except as provided herein. For corner and through lots, any side of a structure that faces a street shall meet front setback requirements.

(C) *Rear:* Minimum forty-five feet (45'). The horizontal space between the rear lot line and the rear setback line, extending to the side lines of the lot, generally parallel with and measured from the rear lot line, defining the area in which no building or structure may be located above ground except as provided herein. For through lots, the rear of the structure facing a street shall meet front setback requirements.

(D) *Naturally Sensitive Areas Setback:* Forty foot (40') minimum setback distance shall exist when structural development occurs on a lot or parcel that is adjacent to naturally sensitive areas including but not limited to riparian areas and wetlands. The City Planner, or his/her designee may determine if a feature constitutes a naturally sensitive area. This setback shall overlap front, side, and rear setbacks. The setback with the largest width shall apply.  
(Ord. 2016-30, § 3)

### § 154.196 MAXIMUM HEIGHT.

Building height shall be defined as the vertical distance as measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the

roof.

(A) Maximum height on sites less than twenty (20) acres shall not exceed thirty-five feet (35') in height.

(B) Maximum height on sites twenty (20) acres or greater shall not exceed forty-five (45') in height.

(Ord. 2016-30, § 4)

**§ 154.197 REMOVED.**

(Ord. 2016-30, § 5; Removed by Ord. 2019-13, § 4)

**§ 154.198 REMOVED.**

(Ord. 2016-30, § 6; Removed by Ord. 2019-13, § 5)

**§ 154.199 REMOVED.**

(Ord. 2016-30, § 7; Removed by Ord. 2019-13, § 6)

**§ 154.200 REMOVED.**

(Ord. 2016-30, § 8; Removed by Ord. 2019-13, § 7)

**§ 154.201 REMOVED.**

(Ord. 2016-30, § 9; Removed by Ord. 2019-13, § 8)

**§ 154.202 RE MOVED.**

(Ord. 2016-30, § 10; Removed by Ord. 2019-13, § 9)

**§ 154.203 REMOVED.**

(Ord. 2016-30, § 11; Removed by Ord. 2019-13, § 10)

**§ 154.204 REMOVED.**

(Ord. 2016-30, §12; Removed by Ord. 2019-13, § 11)

***M-1 LIGHT MANUFACTURING DISTRICTS***

**§ 154.210 USE AND BULK REGULATIONS IN ALL MANUFACTURING DISTRICTS.**

(A) Use and bulk regulations applying specifically to all manufacturing districts are set forth in this subchapter.

(B) Also applying to manufacturing districts are additional regulations set forth in other subchapters and sections of this chapter as follows:

- (1) Section [154.004](#), Zoning districts, establishment and application;
- (2) Section [154.005](#), Rules and interpretation of district boundaries;
- (3) Section [154.006](#), General provisions and supplementary district regulations;
- (4) Section [154.007](#), Definitions;
- (5) Sections [154.295](#) *et seq.*, Planned Unit Development Districts;
- (6) Sections [154.320](#) *et seq.*, Mobile Homes and Mobile Home Parks;
- (7) Sections [154.355](#) *et seq.*, Off-Street Parking and Loading;
- (8) Sections [154.375](#) *et seq.*, Signs;
- (9) Conditional Uses (see editor's note at end of chapter analysis);
- (10) Sections [154.460](#) *et seq.*, Non-conforming Uses and Non-conforming Buildings;

and

(11) Sections [154.480](#) *et seq.*, Administration and Enforcement.  
(Prior Code, § 24-102) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.211 PURPOSE.**

The purpose of this subchapter is to establish a district designed and intended to accommodate; retail, service, production, processing, cleaning, repair, testing, wholesaling and warehousing uses, and other miscellaneous uses and conditional uses which are most compatible with uses typically located with access to major highways, expressways and railroads. Care is taken to insure minimal land use and traffic conflicts and to provide adequate separation from residences.

(Prior Code, § 24-103) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.212 LIMITATIONS OF USE.**

Permitted uses in the M-1 district are subject to the following additional general limitations:

(A) Dwelling units are not permitted;

(B) All businesses, services, processing or storage shall be conducted in completely enclosed buildings unless outside/outdoor sales, displays, and storage complies with the indicated regulation hereafter when applicable.

(Ord. 2016-44, § 1)

(C) Outside/outdoor sales, displays, and storage, all manufacturing and light industrial uses,



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services, processing or storage shall be conducted in completely enclosed buildings; except when outside/outdoor sales, and displays are in conjunction with “drive-in / drive-thru” establishments type use offering goods and services directly to customers waiting in parked motor vehicles; and shall be in compliance with open lot selling regulations when applicable.

(Ord. 2019-14, § 1)

(1) Outside/outdoor sales, displays, and storage is a minimum of one hundred fifty feet (150’) from any residential district, and then only if the open storage is completely non-visible by reason of a wall or opaque fence, or as otherwise indicated hereafter.

(2) Outside/outdoor sales, displays, and storage approved and documented permanent outdoor sales, display, and storage areas shall be permitted accessory uses, tied to the primary use and in compliance with the following regulations and open lot selling when applicable.

(Ord. 2019-14, § 2)

(3) Outside/outdoor sales, displays, and storage shall not be located in any setbacks, easements, right-of-way, or off-street parking or loading service areas.

(4) Outside/outdoor sales, displays, and storage shall be located behind the front or exterior wall of the main building facing any street and when applicable shall comply with all lot requirements in [§154.307](#).

(5) Outside/outdoor sales, displays, and storage shall not cover more than five percent (5%) of the lot area or an area in excess of twice the ground floor area of the main building on the lot, whichever is less.

(6) Outside/outdoor sales, displays, and storage shall be screened according to the provisions of this Section.

(7) No outside/outdoor sales, displays, and storage shall occur within any right-of-way.

(8) Outside/outdoor sales, displays, and storage areas, regardless of size, shall be hard-surfaced, dust free pavement. The pavement type and thickness shall be reviewed at the Site Plan Review Committee prior to obtaining Plan Commission approval, taking into consideration soil conditions and traffic loading. Pervious pavements and pavers including durable materials, suitable for parking such as cobblestones, brick, concrete formed blocks or cut stone, the system of which is specifically installed and designed for vehicular loads shall also be considered. Sales and display areas shall be of concrete, asphaltic pavement, or other permanent paving material and shall be maintained in good condition.

(a) The maximum area for outdoor sales and display shall not exceed ten percent (10%) of the primary structure or primary tenant space.

(b) Every approved permanent outdoor sales and display area shall be within twenty feet (20’) of the primary structure.

(c) Screening shall be provided for outdoor sales and display area that are greater than five hundred square feet (500) in size to reduce visibility of the outdoor sales and displays from the parking lot and primary roadways by installing a minimum twenty-four inch (24”) opaque wall constructed from the same building material as the primary structure, and integrated into the design of the primary structure. The wall may be topped with a transparent fence.

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(d) Outdoor sale and display of merchandise within an area of five hundred square feet (500) or less shall not block handicapped parking areas, parking lot access aisles, and shall maintain a forty-two inch (42") clearance on all sidewalks.

(9) A Type 1 landscaped buffer yard as described in HMC §154.423(F) may also be used. Plant material may be clustered for better view of displays.  
(Ord. 2019-14, § 3)

(10) *Screening.* Outdoor storage of the types described below shall be screened with an opaque fence, split face block wall, continuous evergreen screen, or a combination of the three. The screen must measure a minimum of eight feet (8') in height. The fences or walls shall be compatible with or constructed from the same building material as the primary structure, and integrated into the design of the primary structure.

(11) *Storage in Required Setbacks.* No portion of any setback shall be used for permanent storage except during construction and in accordance with the terms of this section.

(12) *Outside Storage.* No outside storage shall be permitted between an established building line and the right-of-way of a major or minor arterial or collector or other street where a residential district exists on the opposite side of said street.

(D) Same as B-3.

(E) Bulk Storage for any use in which bulk storage is permitted for structures, buildings or aboveground tanks used for bulk storage of flammable or explosive liquids, gases or other material and meet screening requirements in HMC [§154.237](#)(A)(1).

(1) Bulk Storage shall not be located closer than fifty feet (50') to the property line.

(2) Bulk Storage shall be enclosed within an opaque fence, or equivalent, of not less than eight feet (8') high, except as otherwise required by [§154.212](#)(B)(C)(F) Outdoor Sales, Display, and Storage Standards (this section).

(3) Bulk Storage Lots shall be screened according to the provisions of this Section.

(F) However, open off-street loading facilities and open off-street parking of employee, customer/consumer motor vehicles may be unenclosed, except for the screening of parking and loading facilities as may be required under the provisions as set forth herein.  
(Prior Code, § 24-104) (Ord. 97-15; Ord. 2001-41; Ord. 2016-44, §1)

### § 154.213 PERMITTED USES.

The following listed uses and no others are permitted uses in an M-1 district:

(A) Retail and service uses as follows:

(1) Auto service stations and truck stops;

(2) Building materials, sales;

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- (3) Car washes and auto supplies;
  - (4) Cartage and express facilities;
  - (5) Contractor and construction shops;
  - (6) Dry cleaning establishments and pressing plants;
  - (7) Fuel sales, with storage of fuel oils, kerosene, gasoline and other flammable products limited to 120,000 gallons per tank, with the total storage not to exceed 500,000 gallons;
  - (8) Garages, model display and sales;
  - (9) Ice sales;
  - (10) Linen, towel, diaper and other similar services;
  - (11) Mobile home sales and house trailer sales;
  - (12) Motor vehicle sales, including storage, servicing and repairs;
  - (13) Office and household equipment and machinery, sales and service;
  - (14) Parking garages and parking lots, other than accessory; and
  - (15) Planned unit developments, industrial.
- (B) Production, processing, cleaning, testing and repair, as follows:
- (1) Advertising displays;
  - (2) Art needlework and hand weaving;
  - (3) Awnings, draperies and venetian blinds;
  - (4) Bakeries;
  - (5) Beverages, non-alcoholic;
  - (6) Blacksmith shops and ornamental ironworks;
  - (7) Boat building and boat repairs of pleasure craft and other small craft, but not including ship building or shop repairs;
  - (8) Book binding and tooling, hand and machine worked;
  - (9) Bottling works, beverage;
  - (10) Brushes and brooms;

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- (11) Cameras and other photographic equipment and supplies;
- (12) Canvas and canvas products;
- (13) Ceramic products such as pottery and glazed tile;
- (14) Clothing;
- (15) Cosmetics and toiletries;
- (16) Data processing, hardware and software;
- (17) Dentures;
- (18) Drugs, compounding only;
- (19) Dry cleaning;
- (20) Electrical appliances, such as fixtures, home appliances and toys;
- (21) Electrical equipment assembly, such as television, radio and computer;
- (22) Electrical supplies, manufacture and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries;
- (23) Food products (except for meat or fish), processing and combining of, including baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing and pressing;
- (24) Fur goods, not including tanning and dyeing;
- (25) Glass products, from previously manufactured glass;
- (26) Hair, felt and feather products, (except washing, curing and dyeing);
- (27) Hat bodies of fur, felt and cloth;
- (28) Hosiery;
- (29) Ice, dry and natural;
- (30) Ink mixing and packaging and inked ribbons;
- (31) Insecticides;
- (32) Jewelry;
- (33) Laboratories, medical, dental, research, experimental and testing; provided that, there is no danger from fire or explosion, nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences;

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- (34) Laundries;
- (35) Leather products, including shoes and machine belting;
- (36) Luggage;
- (37) Machine shops for tool, die and pattern making;
- (38) Meat products;
- (39) Metal finishing, plating, grinding, sharpening, grinding, polishing, cleaning, rust proofing and heat treatment;
- (40) Metal stamping and extrusion of small products such as bottle caps, buttons, costume jewelry, kitchen utensils, pins and needles and razor blades;
- (41) Mobile homes and house trailers;
- (42) Motor vehicle repair;
- (43) Musical instruments;
- (44) Orthopedic and medical appliances, such as artificial limbs braces, supports and stretchers;
- (45) Paper products, small items such as envelopes and stationery, bags, boxes, tubes and wallpaper;
- (46) Perfumes and perfumed soaps, compounding only;
- (47) Pharmaceutical products, compounding only;
- (48) Poultry and meat processing and retail sale;
- (49) Precision instruments such as optical, medical, testing and measuring;
- (50) Products from finished materials, including, bone, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, semi-precious stones, shell or yarn;
- (51) Rubber products and synthetic treated fabrics, small items such as washers, gloves, footwear, bathing caps and atomizers;
- (52) Printing and newspaper publishing, including engraving and photoengraving;
- (53) Repair of household and office equipment;
- (54) Silverware, plate and sterling;
- (55) Soap and detergents, packaging only;
- (56) Soldering and welding;

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(57) Sporting and athletic equipment such as balls, baskets, bats, cues, gloves racquets and rods;

(58) Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations;

(59) Textiles, including spinning, weaving, manufacturing, dying, printing, knit goods, yarn, thread and cordage, but not including textile bleaching;

(60) Tobacco curing and manufacturing of tobacco products;

(61) Tools and hardware such as bolts, nuts and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks, non-ferrous metal castings and plumbing appliances and fixtures;

(62) Toys;

(63) Umbrellas;

(64) Upholstering (bulk), including mattress manufacturing and rebuilding and renovating furniture;

(65) Vehicles, children's such as bicycles, wagons and baby carriages;

(66) Watches; and

(67) Wood products, such as furniture, boxes, crates, baskets, pencils and cooperage works;

(68) Brewery;  
(Ord. 2012-38, § 3)

(69) Distillery;  
(Ord. 2012-38, § 4)

(70) Winery.  
(Ord. 2012-38, § 5)

(C) Wholesaling and warehousing, including motor freight terminals;

(D) Public and community service uses, as follows:

(1) Publicly-owned facilities and utilities;

(2) Private utilities providing service to the public; and

(3) Similar uses, as determined by the Plan Commission.

(E) Miscellaneous uses, as follows.

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- (1) Radio and television towers; and
  - (2) Signs, as regulated herein.
- (F) Uses incidental to permitted uses, as follows:
- (1) Accessory uses;
  - (2) Temporary buildings or structures for construction purposes, for a period not to exceed the duration of the construction; and
  - (3) Eight fence in height.
- (Prior Code, § 24-105) (Ord. 97-15; Ord. 2001-41; Ord. 2005-43)

### § 154.214 CONDITIONAL USES.

In an M-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein:

- (A) Establishments engaged in production, processing, cleaning testing or repair other than those specifically listed as permitted uses in M-1 districts, but not including any use first listed as permitted in an M-2 district;
- (B) Airports and heliports;
- (C) Bus terminals;
- (D) Concrete and cement products, batch plants;
- (E) Railroad freight terminals, railroad switching and classification yards, repair shops and roundhouses;
- (F) Stadiums, auditoriums and arenas;
- (G) Theaters, automobile drive-in;
- (H) Recycling drop-off centers;
- (I) Recycling stations; and
- (J) Repealed.  
(Repealed by Ord. 2008-17, § 1)
- (K) Adult Entertainment Facilities and Uses: establishments identified as, but not limited to: lingerie stores, massage parlors/spas, body art and piercing or tattoo parlors/studios; and other establishments identified as, book stores, restaurants, dance clubs, nightclubs, bars/taverns, theatres, and dwelling units, operating in conjunction with the selling or renting of goods and service of persons or objects appearing in a state of nudity or depicting/describing or relating to sexual conduct or sexual excitement or similar demeanor determined by the Plan Commission.

(Ord. 2008-17, § 1)  
(Prior Code, § 24-106) (Ord. 94-65; Ord. 2001-41)

**§ 154.215 PERFORMANCE STANDARDS; NOISE.**

(A) In an M-1 district, sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter.

(B) Impulsive type noise shall be subject to the performance standards hereinafter prescribed; provided that, the noise shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this comprehensive amendment, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus 2 decibels. Noises incapable of being so measured, such as those of an irregular and intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

(C) At no point either on the boundary of an agricultural or residence district or an OS-1, OS-2, B-1, B-2 or B-3 district or at 125 feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of an individual plant or operation (other than the operation of motor vehicles and other transportation facilities) exceed the decibel levels at the designated octave bands shown hereinafter for the districts indicated.



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<i>Octave band cycles per second</i>	<i>Maximum permitted sound level in decibels along A-1, R and OS district boundaries or 125 feet from plant or operation boundary</i>	<i>Maximum permitted sound level in decibels along business district boundaries or 125 feet from plant or operation boundary</i>
0000 to 0075	67	73
0075 to 0150	62	68
0150 to 0300	58	64
0300 to 0600	54	60
0600 to 1200	49	55
1200 to 2400	45	51
2400 to 4800	41	47
Above 4800	37	43

(Prior Code, § 24-107) (Ord. 97-15; Ord. 2001-41)

**§ 154.216 PERFORMANCE STANDARDS; ODOROUS MATTER.**

In an M-1 district, the emission of noxious odorous matter in such quantities as to produce a public nuisance beyond the property boundaries is prohibited.

(Prior Code, § 24-108) (Ord. 97-15; Ord. 2001-41)

**§ 154.217 PERFORMANCE STANDARDS; VIBRATION.**

In an M-1 district, any process or equipment which produces intense earth-shaking vibrations, such as are created by heavy drop forges or heavy hydraulic surges, shall be set back at least 500 feet from the property boundaries on all sides, except for a property line adjoining an M-2 district where such set back shall not be mandatory. However, in no case shall such vibrations be allowed to create a public nuisance beyond the property boundaries.

(Prior Code, § 24-109) (Ord. 97-15; Ord. 2001-41)

**§ 154.218 PERFORMANCE STANDARDS; TOXIC OR NOXIOUS MATTER.**

In an M-1 district, no use of any property shall discharge across the boundaries of the property toxic and noxious matter in such concentrations as to be detrimental or to endanger the public health, safety, comfort or welfare or to cause injury or damage to other property or business.

(Prior Code, § 24-110) (Ord. 97-15; Ord. 2001-41)

**§ 154.219 PERFORMANCE STANDARDS; GLARE OR HEAT.**

In an M-1 district, any operation producing intense glare or heat shall be performed within a completely enclosed building and effectively screened in such a manner as to not create a public nuisance or hazard along property boundaries.

(Prior Code, § 24-111) (Ord. 97-15; Ord. 2001-41)

**§ 154.220 PERFORMANCE STANDARDS; FIRE AND EXPLOSIVE HAZARDS.**

In an M-1 district, fire and explosive hazards shall be controlled as follows.

(A) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in M-1 districts.

(B) The storage, utilization or manufacture of materials ranging from incombustible to moderate burning as determined by the Zoning Administrator, is permitted.

(C) The storage, utilization or manufacture of products ranging from free or active burning to intense burning, as determined by the Zoning Administrator, is permitted under the following conditions.

(1) All storage, utilization or manufacture of the materials or products shall be within completely enclosed buildings or structures having incombustible walls.

(2) All buildings or structures shall be set back at least 40 feet from the property boundaries or, in lieu thereof, shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.

(D) Materials or products which produce flammable or explosive vapors or gasses under ordinary weather temperatures shall not be permitted in this district, with the exception of the following which are permitted:

(1) Materials required for emergency or stand-by equipment;

(2) Materials used in secondary processes which are auxiliary to a principal operation, such as paint spraying of finished products; and

(3) Flammable liquids and oils, sold and used in conjunction with the operation of an automobile service station and customarily required or used in such operation.  
(Prior Code, § 24-112) (Ord. 97-15; Ord. 2001-41)

**§ 154.221 PERFORMANCE STANDARDS; AIR POLLUTION.**

In an M-1 district, any use which may cause emission of pollutants into the air shall conform with applicable air quality regulations of the State of Indiana Department of Environmental Management and the United States Environmental Protection Agency.

(Prior Code, § 24-113) (Ord. 97-15; Ord. 2001-41)

**§ 154.222 PERFORMANCE STANDARDS; WATER POLLUTION.**

In an M-1 district, any use which may cause emission of pollutants into streams, rivers, lakes, waterways or watercourses, or into the underground water supply and aquifers shall conform with applicable water quality regulations of the State of Indiana Department of Environmental Management and the United States Environmental Protection Agency.

(Prior Code, § 24-114) (Ord. 97-15; Ord. 2001-41)

**§ 154.223 MAXIMUM FLOOR AREA RATIO.**

In an M-1 district, the maximum floor area ratio of all buildings and structures on a zoning lot shall not exceed 2.4.  
(Prior Code, § 24-115) (Ord. 97-15; Ord. 2001-41)

**§ 154.224 MINIMUM FRONT YARD.**

Minimum front yard requirements in an M-1 are as follows: Minimum of forty feet (40') from a local street/cul-de-sac, forty-five feet (45') from a collector street and fifty feet (50') from a major arterial. The horizontal space between the front lot line and the front setback line, extending to the side lines of the lot, generally parallel with and measured from the front lot line, defining the area in which no building or structure may be located above ground, except as provided herein.

Required front yards may include pedestrian walks, drives, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures. Required side and rear yards may include pedestrian walks, driveways, interior access drives, off-street parking areas, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures.  
(Prior Code, § 24-116) (Ord. 94-69; Ord. 97-15; Ord. 2001-41; Ord. 2016-44, §2)

**§ 154.225 MINIMUM SIDE YARD.**

Minimum side yard requirements in an M-1 are as follows: Minimum forty feet (40'). The horizontal space between the side lot lines and the side setback lines, extending to the front and rear lot lines, generally parallel with and measured from each side lot line, defining the area in which no building or structure may be located above ground, except as provided herein. For corner and through lots, any side of a structure that faces a street shall meet front setback requirements.  
(Prior Code, § 24-117) (Ord. 97-15; Ord. 2001-41; Ord. 2016-44, § 3)

**§ 154.226 MINIMUM REAR YARD.**

Minimum rear yard requirements in an M-1 are as follows: Minimum fifty feet (50'). The horizontal space between the rear lot line and the rear setback line, extending to the side lines of the lot, generally parallel with and measured from the rear lot line, defining the area in which no building or structure may be located above ground except as provided herein. For through lots, the rear of the structure facing a street shall meet front setback requirements.  
(Prior Code, § 24-118) (Ord. 97-15; Ord. 2001-41; Ord. 2016-44, § 4)

**§ 154.227 NATURALLY SENSITIVE AREAS.**

Minimum setback requirement in naturally sensitive areas in an M-1 are as follows: Forty foot (40') setback distance shall exist when structural development occurs on a lot that is adjacent to naturally sensitive areas including but not limited to riparian areas and wetlands. The City

Planner, or his/her designee may determine if a feature constitutes a naturally sensitive area. This setback shall overlap front, side, and rear setbacks. The setback with the largest width shall apply.  
(Ord. 2016-44, § 5)

**§ 154.228 MAXIMUM HEIGHT.**

Building height shall be defined as the vertical distance as measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

(A) Maximum height on lots less than twenty (20) acres shall not exceed forty feet (40') in height.

(B) Maximum height on lots twenty (20) acres or greater shall not exceed fifty feet (50') in height.  
(Ord. 2016-44, § 6)

**§ 154.229 LOT STANDARDS.**

Lot Standards for each district dictate the minimum and/or maximum standards that apply to lots within a Light Manufacturing District (M-1).

(A) *Minimum Lot Area:* 5 acres.

(B) *Minimum Lot Width:* One hundred fifty feet (150'). The minimum lot width is the allowable horizontal distance between the side property lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the front setback line.

(C) *Minimum Lot Frontage:* Seventy feet (70') on a public street. The minimum length of a lot frontage shall be measured between side lot lines at the street right-of-way or private street easement.

(D) *Maximum Lot Coverage:* Seventy-five percent (75%) for all primary and accessory structures, drives and parking areas.  
(Ord. 2016-44, § 7)

**§ 154.230 REMOVED.**

(Ord. 2016-44, § 8; Removed by Ord. 2019-14, § 4)

**§ 154.231 REMOVED.**

(Ord. 2016-44, § 9; Removed by Ord. 2019-14, § 5)

**§ 154.232 REMOVED.**

(Ord. 2016-44, § 10; Removed by Ord. 2019-14, § 6)

**§ 154.233 REMOVED.**

(Ord. 2016-44, § 11; Removed by Ord. 2019-14, § 7)

**§ 154.234 REMOVED.**

(Ord. 2016-44, § 12; Removed by Ord. 2019-14, § 8 )

**§ 154.235 REMOVED.**

(Ord. 2016-44, § 13; Removed by Ord. 2019-14, § 9)

**§ 154.236 REMOVED.**

(Ord. 2016-44, § 14; Removed by Ord. 2019-14, § 10)

**§ 154.237 REMOVED.**

(Ord. 2016-44, § 15; Removed by Ord. 2019-14, § 11)

***M-2 HEAVY MANUFACTURING DISTRICTS***

**§ 154.240 PURPOSE.**

The purpose of this subchapter is to establish a district designed and intended to accommodate retail, service, production, processing, cleaning, repair, testing, wholesaling and warehousing uses; including the conversion of raw material and semi-finished material into finished products or products which are shipped for further processing or finishing; and other miscellaneous uses and conditional uses which are most compatible with uses typically located with access to major highways, expressways and railroads. Care is taken to insure minimal land use and traffic conflicts and to provide adequate separation from residences.

(Prior Code, § 24-119) (Ord. 97-15; Ord. 2001-41)

**§ 154.241 LIMITATIONS OF USE.**

Permitted uses in the M-2 district are subject to the following additional general limitations: In an M-2 district, regulations covering limitations of use in an M-1 district as set forth in [§ 154.212](#) shall apply.

(Prior Code, § 24-120) (Ord. 97-15; Ord. 2001-41)

**§ 154.242 PERMITTED USES.**

The following listed uses and no others are permitted uses in an M-2 district:

(A) Any use permitted in an M-1 district as set forth in [§ 154.213](#);

(B) Additional production, processing, cleaning, testing or repair as follows:

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- (1) Automobile wrecking;
- (2) Asphalt and asphalt products;
- (3) Charcoal, lampblack and fuel briquettes;
- (4) Chemicals, including acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, cleaning and polishing preparations, creosote, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton and other materials, nitrates (manufactured and natural) of an explosive nature, potash, plastic materials and synthetic resins, pyroxylin, rayon yarn, hydrochloric, picric and sulfuric acids and derivatives;
- (5) Coal, coke and tar products, including gas manufacturing;
- (6) Electric power and steam generating plants;
- (7) Explosives, when not prohibited by other ordinances;
- (8) Fertilizers;
- (9) Film, photographic;
- (10) Flour, feed and grain, milling and processing;
- (11) Gelatin, glue and size, animal;
- (12) Incineration or reduction of garbage, offal and dead animals;
- (13) Linoleum and oil cloth;
- (14) Magnesium foundries;
- (15) Matches;
- (16) Metal and metal ores (except precious and rare metals), reduction, refining, smelting and alloying;
- (17) Paint, lacquer, shellac, varnishes, linseed oil and turpentine;
- (18) Petroleum products, refining, such as gasoline, kerosene, lubricating oil, naphtha and liquified petroleum gases;
- (19) Rubber, natural and synthetic;
- (20) Soaps, including fat and oil rendering;
- (21) Starch;
- (22) Stock yards, slaughter houses and abattoirs;

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(23) Wood, coal and bone distillation;

(24) Wood pulp and fiber, reduction and processing, including paper mill operations;  
and

(25) Any other production, processing, cleaning, servicing, testing and repair which conforms with performance standards hereinafter established for an M-2 district.

(C) Storage, including the following uses and materials and products:

(1) Goods used in or produced by manufacturing activities permitted in this district;

(2) Explosives, subject to appropriate performance standards;

(3) Grain; and

(4) Manure, peat and top soil, subject to appropriate performance standards.

(D) Miscellaneous uses as follows: Railroad freight terminals, motor freight terminals, railroad switching and classification yards, repair shops and roundhouses.  
(Prior Code, § 24-121) (Ord. 97-15; Ord. 2001-41)

### § 154.243 CONDITIONAL USES.

In an M-2 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the city only in accordance with the limiting conditions and procedures as set forth herein:

(A) Any use which may be allowed as a conditional use in an M-1 district, as set forth in [§ 154.214](#);

(B) Vehicle salvage yards and disposal sites, including areas for the disposal of garbage, refuse and trash;

(C) Incinerators;

(D) Sewage treatment; and

(E) Recycling plant.

(Prior Code, § 24-122) (Ord. 97-15; Ord. 2001-41)

### § 154.244 PERFORMANCE STANDARDS; NOISE.

In an M-2 district, the emission of noise from any individual operation or plant (other than the operation of motor vehicles and other transportation facilities) so as to create a public nuisance beyond the boundaries of an individual operation or plant, is prohibited. The standards enumerated under [§ 154.215](#) shall also apply to the M-2 district.  
(Prior Code, § 24-123) (Ord. 97-15; Ord. 2001-41)

**§ 154.245 PERFORMANCE STANDARDS; ODOROUS MATTER.**

In an M-2 district, the performance standards governing odorous matter in an M-1 district, as set forth in [§ 154.216](#), shall apply.  
(Prior Code, § 24-124) (Ord. 97-15; Ord. 2001-41)

**§ 154.246 PERFORMANCE STANDARDS; VIBRATIONS.**

In an M-2 district, any process or equipment which produces intense earth-shaking vibrations, such as are created by heavy drop forges or heavy hydraulic surges, shall be set back at least 300 feet from the boundary from a residence or business district and at least 100 feet from the boundary of an M-1 district, unless the operation is controlled in such manner as to prevent transmission beyond property boundaries of earth-shaking vibrations perceptible without the aid of instruments.  
(Prior Code, § 24-125) (Ord. 97-15; Ord. 2001-41)

**§ 154.247 PERFORMANCE STANDARDS; TOXIC OR NOXIOUS MATTER.**

In an M-2 district, the performance standards governing toxic or noxious matter in an M-1 district, as set forth in [§ 154.218](#), shall apply.  
(Prior Code, § 24-126) (Ord. 97-15; Ord. 2001-41)

**§ 154.248 PERFORMANCE STANDARDS; GLARE OR HEAT.**

In an M-2 district, the performance standards governing glare or heat in an M-1 district, as set forth in [§ 154.219](#), shall apply.  
(Prior Code, § 24-127) (Ord. 97-15; Ord. 2001-41)

**§ 154.249 PERFORMANCE STANDARDS; FIRE AND EXPLOSIVE HAZARDS.**

In an M-2 district, fire and explosive hazards shall be controlled in the following manner:

(A) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in the M-2 district unless authorized by the Fire Chief of the city, but in no case shall such uses be permitted closer than 300 feet to the boundary of another district. A partial list of the materials which decompose by detonation when they are in sufficient concentration includes, but is not limited to, the following:

- (1) Acetylates;
- (2) Ammonium nitrates;
- (3) Anhydrous hydrazine;
- (4) Azines;



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- (5) Black powder;
- (6) Blasting gelatin;
- (7) Chlorates;
- (8) Cylonite or hexogen (trimethylene, trinitramine);
- (9) Dinitrobenzene;
- (10) Dinitroresorcinol;
- (11) Dinitrotoluene;
- (12) Dynamite;
- (13) Fireworks;
- (14) Fulminates;
- (15) Greek fire;
- (16) Guanidine nitrate;
- (17) Gun cotton (cellulose nitrate with nitrogen content in excess of 12.2% or pyroxylin);
- (18) Hexane;
- (19) Nitroglycerin;
- (20) Perchlorates (when mixed with carbonaceous materials);
- (21) Permanganates;
- (22) Petn (pentaerythritoltetranitrate);
- (23) Petryl;
- (24) Picric acid;
- (25) Tetryl (trinitrophenylmethyltramine); and
- (26) TNT (trinitrotoluene).

(B) The storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the Zoning Administrator, is permitted.

(C) The storage, utilization or manufacture of materials or products ranging from free or active burning to intensive burning, as determined by the Zoning Administrator, is permitted under the following conditions.

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(1) All storage, utilization or manufacture of the materials or products shall be within completely enclosed buildings or structures having incombustible exterior walls.

(2) All buildings or structures shall be set back at least 40 feet from property boundaries or, in lieu thereof, shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.

(D) Materials or products which produce flammable or explosive vapors or gases under ordinary weather temperature shall not be permitted in this district, with the exception of the following which are permitted:

(1) Materials required for emergency or standby equipment;

(2) Materials used in secondary processes which are auxiliary to a principal operation, such as paint-spraying of finished products; and

(3) Flammable liquids and oils stored, sold and used in conjunction with the operation of an automobile service station and customarily required or used in such operation.  
(Prior Code, § 24-128) (Ord. 97-15; Ord. 2001-41)

### **§ 154.250 PERFORMANCE STANDARDS; AIR POLLUTION.**

In an M-2 district, the performance standards governing air pollution in an M-1 district, as set forth in [§ 154.221](#), shall apply.  
(Prior Code, § 24-129) (Ord. 97-15; Ord. 2001-41)

### **§ 154.251 PERFORMANCE STANDARDS; WATER POLLUTION.**

In an M-2 district, the performance standards governing water pollution in an M-1 district, as set forth in [§ 154.222](#), shall apply.  
(Prior Code, § 24-130) (Ord. 97-15; Ord. 2001-41)

### **§ 154.252 MAXIMUM FLOOR AREA RATIO.**

In an M-2 district, the maximum floor area ratio of buildings and structures on a zoning lot shall not exceed 3.6.  
(Prior Code, § 24-131) (Ord. 97-15; Ord. 2001-41)

### **§ 154.253 MINIMUM FRONT YARD.**

In an M-2 district, the regulations governing minimum front yards in an M-1 district, as set forth in [§ 154.224](#), shall apply.  
(Prior Code, § 24-132) (Ord. 97-15; Ord. 2001-41)

### **§ 154.254 MINIMUM SIDE YARD.**

In an M-2 district, the regulations governing minimum side yards in an M-1 district, as set forth in [§ 154.225](#), shall apply.  
(Prior Code, § 24-133) (Ord. 97-15; Ord. 2001-41)

**§ 154.255 REGULATIONS ALONG RESIDENTIAL DISTRICT BOUNDARIES.**

In an M-2 district, the regulations governing residential district boundaries in an M-1 district, as set forth in [§ 154.226](#), shall apply.  
(Prior Code, § 24-134) (Ord. 97-15; Ord. 2001-41)

***F-1 FLOOD PLAIN DISTRICTS – HAZARD AREAS***

**§ 154.270 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS.**

(A) *Statutory Authorization.* The Indiana Legislature has, in I.C. 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 Hobart does hereby adopt the following floodplain management regulations.

(B) *Findings of Fact.* The flood hazard areas of City of Hobart 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.

(C) *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:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of

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flood prone areas in such a manner as to minimize flood blight area;

(7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

(8) Minimize the impact of development on adjacent properties within and near flood prone areas;

(9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;

(10) Minimize the impact of development on the natural, beneficial values of the floodplain;

(11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and

(12) Meet community participation requirements of the National Flood Insurance Program.

(D) *Methods of Reducing Flood Loss.* In order to accomplish its purposes, these regulations include methods and provisions for:

(1) 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;

(2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

(Prior Code, § 24-139) (Ord. 95-20; Ord. 97-15; Ord. 2001-41; Ord. 2010-16, § 1; Ord. 2011-07, § 1; Ord. 2011-35, § 1; Ord. 2012-02, § 2; Ord. 2016-07; Ord 2022-43)

### § 154.271 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.

**ACCESSORY STRUCTURE** means a structure with a floor area 400 square feet or less that is on the same parcel of property as the 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 a 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) means 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.

**AERATOR** means a mechanical device placed within a public freshwater lake that is used to accomplish any of the following:

- (1) Increase the amount of dissolved oxygen in the water.
- (2) Increase the decomposition of organic materials.
- (3) Alter water flow or circulation.
- (4) Reduce icing.
- (5) Enhance audio or visual enjoyment by bubbling or spraying water.

**ALTERATION OF A WATERCOURSE** means 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.

**APPEAL** means 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** is the land within a community subject to a one

percent (1%) or greater chance of being flooded in any given year.

**BASE FLOOD** means the flood having a one percent (1%) 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)** means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

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

**BEST AVAILABLE FLOOD LAYER (BAFL)** means 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** means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

**CRITICAL FACILITY** means 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** means, 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

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(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.

***DRY HYDRANT*** means a structure that does both of the following:

- (1) Extends lakeward of the legally established or average normal waterline or shoreline.
- (2) Provides a means of suction water supply without direct drafting for fire protection.

***ELEVATION CERTIFICATE*** means 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) is 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*** means 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*** means 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*** means the Federal Emergency Management Agency.

***FILL*** for floodplain management purposes, means 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*** means 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.

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

**FLOOD INSURANCE RATE MAP (FIRM)** means 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)** means 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** means 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 two (2) feet at any given location in the SFHA. (see “Freeboard”)

**FLOOD-RELATED EROSION** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding.

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

**FLOODPLAIN MANAGEMENT** means 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** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as 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)** is 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



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

**FLOODWAY** is 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 cumulatively increasing the water surface elevation more than a designated height.

**FREEBOARD** means 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** is the portion of the floodplain lying outside the floodway.

**FUNCTIONALLY DEPENDENT USE** means 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.

**GLACIAL STONE** means a rounded stone that satisfies each of the following:

- (1) Was produced by glacial activity.
- (2) No individual stone weighs more than one hundred twenty (120) pounds.
- (3) At least ninety percent (90%) of the material passes through a twelve (12) inch sieve.
- (4) Not more than ten percent (10%) of the material passes through a six (6) inch sieve.

**HARDSHIP** (as related to variances from the requirement of this Ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Hobart Common Council requires that the factual basis for the variance is exceptional, unusual, and peculiar to the property involved for the Board of Zoning Appeals to grant the variance. 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** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE** means any structure that is:

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(1) listed individually listed 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** means analyses performed by a professional engineer licensed by the State of Indiana, in accordance with the 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** means 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)** means 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)** is 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)** means 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)** means 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)** means 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)** means an official

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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)** means 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)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

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

**LOWEST FLOOR** means, 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 flood waters. 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 flood waters.

(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** means 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** means a parcel (or contiguous

parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** means 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** is 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)** is an official republication of a community’s FEMA map to effect changes to base (one-percent 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** is 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** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**PUBLIC FRESHWATER LAKE** means a naturally formed lake (not man made) that has been used by the public with the acquiescence of a riparian owner. The term does not include the following:

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- (1) Lake Michigan.
- (2) A lake lying wholly or in part within the corporate boundaries of any of the three (3) cities having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (3) A privately owned body of water:
  - (a) used for the purpose of surface coal mining; or
  - (b) created as a result of surface coal mining.

A listing of Indiana public freshwater lakes is maintained in Natural Resources Commission Information Bulletin #61.

**RECREATIONAL VEHICLE** means 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** means 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 [§154.272\(B\)](#) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**REPETITIVE LOSS** means 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** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SOLID WASTE DISPOSAL FACILITY** means 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.

**SPECIAL FLOOD HAZARD AREA (SFHA)**, synonymous with "areas of special flood hazard" and floodplain, means 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 and Flood Insurance Studies as Zones A, AE, AH, AO, A1-30, 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.

**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** means 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** means 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** means 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.

**TEMPORARY STRUCTURE (Public Freshwater Lakes only)** means a structure that can be installed and removed from the waters of a public freshwater lake without using a crane, bulldozer, backhoe, or similar heavy or large machinery. Examples of a temporary structure include the following:

(1) A pier that is supported by auger poles or other poles that do not exceed three and one-half (3½) inches in diameter and rest on the lakebed; and is not mounted in or comprised of concrete or cement.

(2) A boat shelter, boat lift, or boat hoist that has a canvas top and sides; is supported by auger poles or other poles that do not exceed three and one-half (3½) inches in diameter; is not mounted in or comprised of concrete or cement; is designed to float or to rest upon the bed of the lake under its own weight if any structure to which it is attached complies with this section; and, is not wider than ten (10) feet nor longer than twenty (20) feet.

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**VARIANCE** is a grant of relief from the requirements of this Ordinance consistent with the variance conditions herein.

**VIOLATION** means the failure of a structure or other development to be fully compliant with this Ordinance.

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

**WATERCOURSE** means 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.

(Prior Code, § 24-140) (Ord. 95-20; Ord. 97-15; Ord. 2001-41; Ord. 2010-16, § 1; Ord. 2011-07, § 1; Ord. 2011-35, § 1; Ord. 2012-02, § 2; Ord. 2016-07; Ord. 2022-43)

### § 154.272 GENERAL PROVISIONS.

(A) *Lands to Which This Ordinance Applies.* This Ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of the City of Hobart, Indiana as identified in §154.272, Section B, including any additional areas of special flood hazard annexed by the City of Hobart, Indiana and all properties zoned F-P, FP-1, and FP-2 on the official zoning map of the City of Hobart, Indiana.

(B) *Basis for Establishing the Areas of Special Flood Hazard.*

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of Hobart, delineated as an “AE Zone” on the Lake County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 18, 2012 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of Lake County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated January 18, 2012 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.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of Hobart, delineated as an "A Zone" on the Lake County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 18, 2012 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.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA

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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.

(4) 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.

(C) *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.

(D) *Compliance.*

(1) 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.

(2) 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.

(3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this Ordinance and other applicable regulations.

(E) *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.

(F) *Discrepancy between Mapped Floodplain and Actual Ground Elevations.*

(1) 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.

(2) 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.

(3) 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.

(G) *Interpretation.* In the interpretation and application of this Ordinance all provisions shall be:



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

(H) *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 Hobart, 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.

(I) *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 Hobart. All violations shall be punishable by a fine not exceeding \$2,500 per violation.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The City of Hobart Plan Commission 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.

(3) 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.

(Prior Code, § 24-141) (Ord. 95-20; Ord. 97-15; Ord. 2001-41; Ord. 2010-16, § 1; Ord. 2011-07, § 1; Ord. 2011-35, § 1; Ord. 2012-02, § 2; Ord. 2016-07; Ord. 2022-43)

### **§ 154.273 ADMINISTRATION.**

(A) *Designation of Administrator.* The Common Council of the City of Hobart hereby appoints the City Engineer to administer and implement the provisions of this Ordinance and is herein referred to as the Floodplain Administrator.

(B) *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:

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### (1) *Application stage:*

- (a) A description of the proposed development;
- (b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
- (c) A legal description of the property site;
- (d) 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;
- (e) A site development plan showing existing and proposed development locations and existing and proposed land grades;
- (f) 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;
- (g) 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.
- (h) 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;
- (i) Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed;
- (j) Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;
- (k) Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;
- (l) Plans showing how any proposed structure will be anchored to resist flotation or collapse;
- (m) 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;
- (n) 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 [§154.273\(C\)\(8\)](#) and [§154.273\(E\)](#) for additional information); and

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(o) 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.

(2) *Construction stage:* 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.

(3) *Finished Construction:*

(a) Upon completion of construction of any structure requiring certification of elevation, 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.

(b) 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.

(c) 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 same.

(C) *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:

- (1) Enforce the provisions of this Ordinance.
- (2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this Ordinance have been satisfied.
- (3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (4) 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.
- (5) Advise permittee that additional Federal, State and/or local permits may be

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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.

(6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas, must meet the development standards of these regulations.

(7) 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:

(a) Verify and document the market value of the pre-damaged or pre-improved structure;

(b) 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;

(c) 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

(d) 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 §154.274 of this Ordinance are required.

(8) 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.

(9) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to [§154.274](#) (A)(1), A(3)(a) and (A)(4) of this Ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(10) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if §154.273 (C)(9) is applicable.

(11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with [§154.273](#) (B).

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(13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with [§154.273\(B\)](#).

(14) Make on-site inspections of projects in accordance with §154.273(D).

(15) 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.

(16) Ensure that an approved connection to 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.

(17) Provide information, testimony, or other evidence as needed during variance hearings.

(18) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with [§154.273\(D\)](#).

(19) 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 [§154.273\(D\)](#).

(20) Coordinate map maintenance activities and associated FEMA follow-up in accordance with [§154.273\(E\)](#).

(21) 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.

(22) 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.

### (D) *Administrative Procedures.*

(1) *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.

### (2) *Stop Work Orders.*

(a) 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;

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(b) 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;

### (3) *Revocation of Permits.*

(a) The floodplain administrator may revoke a permit or approval, issued under the provisions of this 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;

(b) 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.

### (4) *Floodplain Management Records.*

(a) 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 denials 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.

(b) These records shall be available for public inspection at the Hobart City Hall located at 414 Main Street, Hobart, IN 46342.

(5) *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.

(E) *Map Maintenance Activities.* To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Hobart's flood maps, studies, and other data identified in §154.272(B) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

#### (1) *Requirement to Submit New Technical Data.*

(a) 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:

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1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
2. 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;
3. 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.

(b) 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.

(c) 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.

(d) 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.

(2) *Right to Submit New Technical Data.* 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 Hobart and may be submitted to FEMA at any time.

(3) *Annexation / Detachment.* Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Hobart 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 Lake County, Indiana and Incorporated Areas Flood Insurance Rate May accurately represent the City of Hobart boundaries, include within such notification a copy of a map of the City of Hobart suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Hobart has assumed or relinquished floodplain management regulatory authority.

### (F) *Variance Procedures.*

(1) The Board of Zoning Appeals (the Board) as established by the Hobart Common Council shall hear and decide appeals and requests for variances from requirements of this Ordinance.

(2) 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

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Board may appeal such decision to the Lake County Circuit or Superior Court.

(3) In considering such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

(a) the danger to life and property due to flooding or erosion damage;

(b) the danger that materials may be swept onto other lands to the injury of others;

(c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) the importance of the services provided by the proposed facility to the community;

(e) the necessity to the facility of a waterfront location, where applicable;

(f) the compatibility of the proposed use with existing and anticipated development;

(g) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(h) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(i) the expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters at the site; and

(j) 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.

(4) A written report addressing each of the above factors shall be submitted with the application for a variance.

(5) 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:

(a) A showing of good and sufficient cause.

(b) A determination that failure to grant the variance would result in exceptional hardship as defined in §154.271.

(c) 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 the existing laws or ordinances.



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(6) No variance for a residential use within a floodway subject to, §154.274(A)(1), (A)(3)(a) or (A)(4) of this Ordinance may be granted.

(7) Any variance granted in a floodway subject to §154.274(A)(1), (A)(3)(a) or (A)(4) 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.

(8) Variances to the Provisions for Flood Hazard Reduction of §154.274 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.

(9) 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.

(10) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.

(11) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(12) Upon consideration of the factors listed above and the purposes of this Ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

(13) 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.

(14) The Floodplain Administrator shall maintain the records of appeals and Board actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

(Prior Code, § 24-142) (Ord. 95-20; Ord. 97-15; Ord. 2001-41; Ord. 2010-16, § 1; Ord. 2011-07, § 1; Ord. 2011-35, § 1; Ord. 2012-02, § 2; Ord. 2016-07; Ord. 2022-43)

### **§ 154.274 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

#### *(A) Floodplain Status Standards.*

(1) *Floodways (Riverine):* Located within the SFHAs, established in §154.272(B), 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.

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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 (IC14-28-1 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.

(a) If the site is in a regulatory floodway as established in §154.272(B), 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).

(b) 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.

(c) The Floodplain Development Permit cannot be less restrictive than an approval issued for the 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.

(d) 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 §154.273(E)(1). 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.

(e) 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.

(f) 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 §54.12.

(2) *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.

(3) *SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)*.

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(a) *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 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.

(b) *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 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.

### (4) *SFHAs not Identified on a Map.*

(a) 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.

(b) 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 annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(c) 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.

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(5) *Public Freshwater Lakes:* Within the SFHA are public freshwater lakes. Public freshwater lakes are governed by IC 14-26-2 (sometimes referred to as the Lakes Preservation Act) and rules adopted by the Natural Resource Commission at 312 IAC 11-1 through 312 IAC 11-5 to assist with its implementation. A listing of public freshwater lakes can be found in the Indiana Register, Information Bulletin #61. Noting while Lake Freeman and Lake Shafer are listed, Indiana Department of Natural Resources and Natural Resource Commission authority is abridged by IC 14-26-2-15. Dredging of public freshwater lakes is addressed in the Indiana Register, Information Bulletin #60.

(a) Lakes Preservation Act jurisdiction is based on the specific lake's legally established lake level, where this legally established elevation (legal lake level) meets the land along the shoreline. When no legal lake level is established for a lake, average normal shoreline at each site is used, based on observation of breaks such as lakebed vs. ground and lines of demarcation.

(b) Indiana Department of Natural Resources approval is required for excavation, fill, and placement, modification, or repair of a temporary or permanent structure over, along or lakeward of the shoreline or waterline of a public freshwater lake. Walls landward of the shoreline (within ten (10) feet) and below legal or normal water level of a public freshwater lake also require prior approval from the Department of Natural Resources.

(c) General licenses and exemptions to the Lake Preservation Act may apply to the placement of temporary piers, dry hydrants, aerators, or glacial stone reface, provided they meet the specific criteria of the Public Lakes Rules.

(d) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval or qualification for a general license has been verified. Once a permit or approval has been issued by the Indiana Department of Natural Resources (or general license qualification verified), the Floodplain Administrator may issue the local Floodplain Development Permit, provided the applicable provisions contained in this article have been met. The Floodplain Development Permit cannot be less restrictive than the permit issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(B) *General Standards:* In all areas of special flood hazard, the following provisions are required:

(1) 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;

(2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

(3) New construction and substantial improvements must incorporate methods and practices that minimize flood damage;

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other

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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;

(5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(8) 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;

(9) 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;

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(C) *Specific Standards.* In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in §154.272(B), the following provisions are required:

(1) *Building Protection Requirement.* In addition to the general standards described in [§154.274](#) (B), 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:

(a) Construction or placement of a residential structure;

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(b) Construction of placement of a non-residential structure;

(c) Addition or improvement made to any 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;

(d) 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);

(e) Installing a manufactured home on a new site or a new manufactured home on an existing site;

(f) Installing a travel trailer or recreational vehicle on a site for more than 180 days;

(g) Reconstruction or repairs made to a repetitive loss structure; and

(h) Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

### (2) Residential Construction.

(a) New construction or substantial improvement of any residential structures shall meet provisions described in [§154.274\(A\)](#) and applicable general standards described in [§154.274\(B\)](#).

(b) 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 [§154.274\(C\)\(2\)\(c\)](#). Should fill be used to elevate a structure, the standards of [§154.274\(C\)\(2\)\(d\)](#) must be met.

(c) *Fully enclosed areas* formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:

1. 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. 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:

a. 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

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of not less than one square inch for every one square foot of enclosed area);

b. 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;

c. Doors and windows do not qualify as openings;

d. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;

e. 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.

2. The floor of such enclosed area must be at or above grade on at least one side.

(d) A residential structure may be constructed on fill in accordance with the following:

1. 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;

2. Fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE;

3. 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;

4. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties;

5. Fill shall be composed of clean granular or earthen material.

(e) A residential structure may be constructed using a *stem wall foundation* (also called a 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.

### (3) *Non-Residential Construction.*

(a) New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet the provisions described in [§154.274\(A\)](#) and applicable general standards described in [§154.274\(B\)](#).

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(b) 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, 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 [§154.274\(C\)\(3\)\(c\)](#). Should fill be used to elevate a structure, the standards of [§154.274\(C\)\(3\)\(d\)](#) must be met.

(c) *Fully enclosed* areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:

1. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. 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:

a. 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);

b. 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;

c. Doors and windows do not qualify as openings;

d. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in the directions;

e. 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.

2. The floor of such enclosed area must be at or above grade on at least one side.

(d) A nonresidential structure may be constructed on fill in accordance with the following:

1. 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;

2. Shall extend ten feet beyond the foundation of the structure before sloping below the BFE;

3. Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;



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4. Shall not adversely affect the flow of surface drainage from or onto neighboring properties;

5. Shall be composed of clean granular or earthen material.

(e) A nonresidential structure may be floodproofed in accordance with the following:

1. 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.

2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(f) A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-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.

### (4) *Manufactured Homes and Recreational Vehicles.*

(a) These requirements apply to all manufactured homes to be placed on a site in the SFHA:

1. 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.

2. 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 [§154.274\(C\)\(2\)\(c\)](#).

3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(b) Recreational vehicles placed on a site in the SFHA shall either:

1. 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

2. Meet the requirements for “manufactured homes” as stated earlier in this section.

(5) *Accessory Structures:* Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

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- (a) Shall have a floor area of 400 square feet or less;
- (b) Use shall be limited to parking of vehicles and limited storage;
- (c) Shall not be used for human habitation;
- (d) Shall be constructed of flood resistant materials;
- (e) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- (f) Shall be firmly anchored to prevent flotation;
- (g) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG;
- (h) 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 [§154.274\(C\)\(3\)\(c\)](#); and
- (i) Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

(6) *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:

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

(7) *Above Ground Gas or Liquid Storage Tanks:* Within SFHAs, all newly placed aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in [§154.274\(C\)\(3\)](#).

### (D) *Standards for Subdivision and Other New Developments.*

(1) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.

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(2) 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.

(3) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.

(4) 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.

(5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(7) 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.

(E) *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.

(Prior Code, § 24-143) (Ord. 95-20; Ord. 97-15; Ord. 2001-41; Ord. 2010-16, § 1; Ord. 2011-07, § 1; Ord. 2011-35, § 1; Ord. 2012-02, § 2; Ord. 2016-07; Ord. 2022-43)

### **§ 154.275 LEGAL STATUS PROVISIONS.**

(A) *Severability:* If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

(Prior Code, § 24-145) (Ord. 95-20; Ord. 97-15; Ord. 2001-41; Ord. 2010-16, § 1; Ord. 2011-07, § 1; Ord. 2011-35, § 1; Ord. 2012-02, § 2; Ord. 2016-07; Ord. 2022-43 )

## ***PLANNED UNIT DEVELOPMENTS DISTRICTS***

### **§ 154.295 PURPOSE.**

(A) The purpose of this subchapter is to provide greater design flexibility in the

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development of land when consistent with the Comprehensive Plan and intent of the zoning ordinance. The use of planned unit developments shall be encouraged to promote smart growth ideologies of a harmonious variety of uses, and/or are compatible with surround areas and/or foster the creation of attractive, healthful, efficient and stable environments for living, shopping or working.

(B) The planned unit development district regulations and procedures may apply to the redevelopment of presently developed lands, or the development of open or vacant lands, and may apply to parcels of relatively small size as well as large-scale developments and their relationship with other surrounding uses and the overall characteristics of the area in which it is to be located.

(C) Planned unit development district regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life.

(D) Planned unit development district projects should also encourage a more efficient use of land which reflects the changes in technology of land development so that the resulting economies may accrue to the benefit of the community at large.

(E) To that end, the effect of the regulations contained in this chapter as to use, bulk, yards, height and the development regulations contained in subchapter entitled SITE PLAN commencing in § 154.415, may be waived or modified to provide relief there from to allow unconventional development in the specific planned unit development project. The community may then benefit from such desirable but unconventional developments and be protected and insured through the limitations and conditions placed upon and made part of the ordinance granting the specific “planned unit development district”.

(Prior Code, § 24-152) (Ord. 97-15; Ord. 2001-41; Ord. 2006-42, § 1; Ord. 2018-23, § 1; Ord. 2019-15, § 1)

### **§ 154.296 PLANNED UNIT DEVELOPMENTS; CLASSIFICATION.**

Planned unit developments may be classified in the following designations.

(A) *Planned unit development - Residential.* Any development consisting of not less than 5 acres in which more than 80% of the interior floor area of all buildings to be included in the development is used for residential purposes and/or those accessory purposes customarily related to residential use.

(B) *Planned unit development - Business.* Any development consisting of not less than 4 acres in which all of the interior floor area of all buildings to be included in the development is to be used for business or commercial purposes.

(C) *Planned unit development – Office Service, Planned Business Park, Manufacturing.* Any development consisting of Office Service, Planned Business Park, Manufacturing/Light Industrial or any mix of said uses on not less than 5 acres development plan, and in accordance with development regulations outlined in subchapter entitled SITE PLAN commencing in §154.415, and in which more than 80% of the interior floor area of all buildings to be included in the development is used customarily relating to office-service, planned business park, and/or

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manufacturing/industrial use(s), with a balance of the interior floor area, if any, being intended for the business or commercial uses as reasonably relate to the support or convenience of the intended uses or their occupants.

(Ord. 2016-31, § 1; Ord. 2019-15, § 2)

(D) *Planned unit development - Mobile Home Park.* Any development consisting of not less than 75 mobile home sites of not less than 4,500 square feet each in which more than 80% of the interior floor area of all the mobile homes and all the other buildings combined in the development is used for mobile home residence or the accessory uses customarily related to mobile homes, with the balance of the interior floor area, if any, being intended for the business, commercial and community uses as reasonably relate to the support or convenience of the mobile home park residents.

(Prior Code, § 24-153) (Ord. 97-15; Ord. 2001-41)

### § 154.297 ORGANIZATION OF PROPOSALS.

(A) *General.* Any person, corporation, partnership or association having an ownership interest in a proposed development, or any group of owners united in interest, acting jointly, and in pursuance to an agreement to carry out the proposal in separate ownership may propose a planned unit development district in accordance with the procedures hereinafter established, where the individual owner or group of owners in making such proposal intends to act as developer or sponsor of the development if the planned unit development ordinance is adopted and indicates the requisite capabilities to carry out the proposal. A parcel, or site proposed for a planned unit development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners have given their expressed intentions to enter into the private agreements between or among themselves as will facilitate their mutual enterprise, and incorporate smart growth principles and assure its completion as planned to the satisfaction of the Plan Commission.

(B) *Smart growth principles.*

- (1) Mix land uses;
- (2) Take advantage of compatible building design;
- (3) Create a range of housing opportunities and choices;
- (4) Create walkable neighborhoods;
- (5) Foster distinctive, attractive communities with a strong sense of place;
- (6) Preserve open space, farmland, natural beauty and critical environmental areas;
- (7) Strengthen and direct development towards existing and future developments;
- (8) Provide a variety of transportation choices;
- (9) Make development decisions predictable, fair and cost effective; and

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(10) Encourage community and stakeholder collaboration in development decisions.  
(Prior Code, § 24-154) (Ord. 97-15; Ord. 2001-41; Ord. 2006-42, § 1)

### § 154.298 FILING PROCEDURE.

The general and specific procedures for filing for a planned unit development district are as set forth in the following.

(A) A petition and all other documents required for the requested planned unit development district shall be submitted, which petition shall be signed by the owner or owners of all real estate involved in the petition for the planned unit development district, or which petition shall have attached thereto the notarized consent of all such owners to the filing of the petition.

(B) The PUD petition, shall include a preliminary plan and plat for any area proposed for development. Twenty copies of the plan and plat shall be filed with the Plan Commission. The preliminary plan and plat shall include:

(1) The proposed layout of streets, open space and other basic elements of the plan;

(2) Identification of location and types of structures and their use categories within the area, including proposed densities of the uses;

(3) Proposals for handling traffic, parking, water supply, sewage disposal, storm drainage, tree preservation and removal, landscaping, lighting, signage and other pertinent development features;

(4) A separate location map to scale shall show the boundary line of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land;

(5) The condominium declaration (if applicable), a document creating an owners' association and any covenants which are to be made part of the planned unit development district as well as the order and estimated time of development; and

(6) A statement of the proposed order of development of the major elements of the project, including smart growth principles and whether the development will be accomplished in phases, and, if so, the order and content of each phase.

(C) The preliminary plan shall be presented to the Plan Commission with copies for each member thereof and additional file copies for a total of 12 copies drawn to a scale ratio not to exceed 100 feet equals 1 inch. The preliminary plan may include any additional graphics which will help to explain the features of the development. It shall also be provided to the following checkpoint agencies for their review and comment:

(1) Hobart Board of Public Works and Safety;

(2) Hobart Police Department;

(3) Hobart Fire Department;

(4) Hobart Parks Department;

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- (5) Hobart School Corporation; and
- (6) Lake County Soil and Water Conservation District.

(D) After assignment of a docket number and prior to the date of the public hearing on the preliminary plan as established by the Plan Commission, the Administrator shall meet with the petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide additional comments and/or clarifications thereto. After such consultation the petitioner may make modifications to the petition. The Administrator may require revision to the preliminary plan if the modifications are deemed to be substantive. The revised preliminary plans shall be made available to the members of the Plan Commission at least 10 days prior to the date of the public hearing thereon.

(Prior Code, § 24-155) (Ord. 97-15; Ord. 2001-41; Ord. 2006-42, § 1)

### **§ 154.299 PRELIMINARY PLAN HEARING.**

(A) The petition, if and as modified, shall be heard by the Plan Commission as a petition under the planned unit development district provisions of the zoning ordinance, and subject to the procedures applicable thereto. The Plan Commission may recommend approval or disapproval of the plan and may impose any reasonable condition(s) with its affirmative recommendation. If disapproval is recommended, the application shall not be certified to the Council of the City of Hobart. If approval is recommended, the preliminary plan shall be stamped “Approved Preliminary Planned Unit Development” and be signed by the President and Secretary of the Plan Commission. One copy shall be permanently retained in the files of the Plan Commission, 1 copy shall be returned to the petitioner and 1 copy and all conditions shall be certified as described below.

(B) The approved preliminary planned unit development shall then be certified to the Council of the City of Hobart for adoption as a planned unit development district pursuant to the laws governing proposals to change zoning maps. Upon adoption by the legislative body, the petitioner shall prepare the final detailed plan.

(Prior Code, § 24-156) (Ord. 97-15; Ord. 2001-41)

### **§ 154.300 APPROVAL OF THE FINAL DETAILED PLAN.**

The procedures for approval of the final detailed plan shall be as follows.

(A) (1) After adoption of an ordinance by the Council to establish a planned unit development district and before any development takes place, the petitioner shall file with the Plan Commission a minimum of 6 sets of the final detailed plan specifying the location, composition and engineering features of all lots, storm drainage, sanitary sewage, water supply facilities, public or private streets, recreation facilities, site perimeter treatment, landscaping, plat and other site development features including locations of buildings. The petitioner shall file the original of all signed and notarized documents pertaining to all restrictive covenants, condominium and/or the creation of a homeowners association, along with financial assurance for the satisfactory installation of all public improvements.

(2) The Plan Commission shall then approve plans by duly adopted motion upon an

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affirmative finding that the final detailed plan is consistent with the approved preliminary planned unit development as adopted and passed by the Council of the City of Hobart upon rezoning. Having so once approved the final detailed plan, the Plan Commission shall have no further review or act thereon, except as to enforcement, except as to an amendatory ordinance, and except as to hereafter provided for.

(B) The approved preliminary planned unit development may provide for the development of the property involved in phases. If such phasing is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed plans which correspond to the phases involved. The partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire planned unit development.

(C) The approved final detailed plan or phase thereof shall be stamped "Approved Final Detailed Planned Unit Development" and be signed by the President and Secretary of the Plan Commission with 1 copy permanently retained in the files of the Plan Commission following recordation as specified herein.

(D) Unless extended by the Plan Commission pursuant hereto, approval of the first phase of the final detailed plan shall be obtained within 2 years and approval of the balance of the final detailed plan shall be obtained within 5 years after adoption of the planned unit development district by the Hobart Common Council.

(E) In the event that approval of a final detailed plan is not obtained within 12 months of initial application, the Plan Commission may initiate an amendment to remove "Planned Unit Development District" designation and rezone the property to another land use designation.

(F) Approval of a final detailed plan shall expire after a period of 5 years from the approved phasing of the preliminary plan unless the development is 50% completed in terms of public improvements including streets, parks, walkways, utility installations and sanitary sewers. Determination of the amount of completion shall be made by the Plan Commission upon a recommendation of the Administrator. Following expiration of the final detailed plan, the City of Hobart shall declare the bond to be in default and cause all public improvements to be installed according to the final detailed plan.

(Prior Code, § 24-157) (Ord. 97-15; Ord. 2001-41)

### **§ 154.301 COVENANTS AND MAINTENANCE.**

The Plan Commission is authorized to require and accept covenants and restrictions governing allowed uses, development standards and design within a planned unit development as follows.

(A) All covenants, required by the Plan Commission, shall be prepared and submitted by the applicant. Such covenants shall set forth in detail and provide for a provision for the release of the restriction by execution of a document so stating and suitable for recording. Covenants authorized by the Plan Commission shall be signed by the Plan Commission President and Secretary and by all of the owners of property in the area involved in the petition for whose benefit the covenant was created. The covenants shall provide that their benefits run to the Plan Commission and shall be specifically enforceable by the Plan Commission in addition to the property owners.



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

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

- (1) Lot area;
  - (2) Floor area;
  - (3) Ratios of floor space to land space;
  - (4) Areas in which structures may be built (“buildable area”);
  - (5) Open space;
  - (6) Setback lines and minimum yards;
  - (7) Building separations;
  - (8) Height of structures;
  - (9) Signs;
  - (10) Off-street parking and loading space;
  - (11) Relevant design guidelines, as set forth in the City of Hobart Design Guidelines;
- and
- (12) Phasing of development.

(Ord. 2018-12, § 2)

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

(E) Common facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

(F) All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that the vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit. (Prior Code, § 24-158) (Ord. 97-15; Ord. 2001-41; Ord. 2019-15, § 3)

**§ 154.302 RECORDING.**

(A) All approved final detailed planned unit development plans and plats and any modifications thereof shall be recorded in the Office of the Lake County Recorder within 2 years after approval, but before any development takes place.

(B) The certification of recording shall be kept on file with the plans and plats.

(C) Failure to record shall automatically void the approval of the final detailed planned unit development.

(D) Upon the completion of all development, the developer shall submit exact measurements, as to the location of buildings or structures erected during the development. The developer shall submit a copy of the approved final detailed plan unit development to the Administrator as an amended final detailed plan unit development. The exact measurements shall be shown on the amended plan. Once satisfied that the measurements are substantially the same as was indicated on the original final detailed planned unit development, the Administrator shall approve, date and sign the amended final detailed planned unit development, which the developer shall then record.

(Prior Code, § 24-159) (Ord. 97-15; Ord. 2001-41)

**§ 154.303 PERMIT.**

An improvement location permit shall be issued for a planned unit development district upon full compliance with the approved final detailed planned unit development.

(Prior Code, § 24-160) (Ord. 97-15; Ord. 2001-41)

**§ 154.304 CONSTRUCTION.**

(A) No construction or installation work shall be done on any public improvements until the petitioner has, at least 24 hours in advance, notified the appropriate governmental inspector(s) of his intention to begin such work, in order that inspections may be made as the work progresses.

(B) All development shall be in conformity with the approved and recorded final detailed planned unit development and any material deviations from the approved and recorded final detailed planned unit development shall be subject to the appropriate enforcement action as provided for in this chapter.

(Prior Code, § 24-161) (Ord. 97-15; Ord. 2001-41)

**§ 154.305 EXTENSIONS, ABANDONMENT AND EXPIRATION.**

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(A) Extensions of the time for accomplishing any matters set forth herein may be granted by the Plan Commission at a public hearing for good cause shown.

(B) Abandonment shall have occurred when no improvements have been subsequent to pursuant to the approved final detailed planned unit development for 24 consecutive months. Upon the abandonment of a development authorized under this section, or upon the expiration of 5 years from the date of the approval of a final detailed planned unit development for a development which has not been completed, an amendment may be initiated as provided by law to the zoning map so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories which the Plan Commission deems appropriate.

(Prior Code, § 24-162) (Ord. 97-15; Ord. 2001-41)

### § 154.306 LIMITATION OF REZONING.

The Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a planned unit development before completion of the development as long as the development is in conformity with the approved final detailed planned unit development and is proceeding in accordance with the time requirements imposed herein.

(Prior Code, § 24-163) (Ord. 97-15; Ord. 2001-41)

### § 154.307 OPEN LOT SELLING.

(A) *Purpose.* The purpose of this is intended to allow retail establishments the flexibility to sell seasonal items merchandise or service as an open lot venue, providing that the retail establishments comply with all provisions and requirements provided herein and of the Hobart Municipal Code.

(B) *Limitation.*

(1) Local retail establishments, in possession of real property and in conjunction with the sale of personal property identified as seasonal items or provide amusement/educational event may operate as an open lot selling, and where permit fees are waived.

(2) Guest retail establishments, not in possession of real property, with the intent to sell personal property identified as seasonal items or provide amusement/educational events, may operate as open lot selling and are subject to permit fees and where appropriate must provide; retail merchants certificate/license, state EIN, sales tax certification, business insurance, and when applicable, weights and measures label certification, or any additional verification/qualifications from appropriate agency granting business recognition.

(C) *Definitions.*

**OPEN LOT SELLING.** Any business activity that is not carried on within the building, which houses the business' main operations, including an activity which is carried on within an accessory building, temporary building or temporary structure.

**PERSONAL PROPERTY.** Any interests of movable business property from 1 location to

another consisting of goods, service, inventory and product.

**REAL PROPERTY.** Any interests of real estate ownership of immovable property including the land and buildings.

**SEASONAL ITEMS.** Any item, good or service, offered for sale by a business primarily for a limited period of time or in quantities substantially greater for a limited period of time, than are offered in the usual course of business.

(D) *Restrictions.* Open lot selling of seasonal items shall be permitted subject to the following.

(1) Open lot selling shall only be permitted in the B-3, B-2 and Business PUD Zoning Districts.

(2) Open lot selling shall not infringe on the side, front or rear yards required by this chapter or encroach closer to residential property than the existing building.

(3) Any temporary building, structure or similar facility used in open lot selling shall meet all city requirements for temporary structures. They must be dismantled and removed from the site within 3 business days of the expiration of the permit.

(4) Any temporary building, structure or similar facility used in open lot selling shall have the perimeter of the selling area screened or buffered from the roadway and abutting property by living or artificial landscaping. Landscaping screening shall be developed as to prevent viewing of the product display area. The plan for the screening or buffering shall be submitted with the request for the permit, and shall be approved by the Zoning Official upon showing of reasonableness to meet the intent of this subchapter.

(5) Prior to the sale of merchandise or public occupancy, authorized inspectors will conduct on site reviews and when appropriate, provide release forms.

(6) Open lot selling shall not infringe on fire lanes, impede access of emergency vehicles, or create any fire hazard under the Hobart Municipal Code or applicable fire safety regulations.

(7) Open lot selling shall not create a traffic or safety hazard under the Hobart Municipal Code.

(8) Open lot selling shall only be permitted as an accessory use to an existing properly conducted business.

(9) Submission of a site plan that identify: length, width and height of all proposed and existing structures; vehicle and pedestrian circulation; parking locations; setback and aisle dimensions.

(10) Signs are deemed temporary signs and must obtain a business special event sign permit. Signs are permitted facing each platted frontage for the duration of the described event/sale, not to exceed 45 square feet per sign.

(11) A merchandise list shall be submitted which describes what the applicant intends

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to offer for sale.

(12) Open lot selling, local retail establishment, of any one reasonable item shall be permitted for no more than 8 continuous weeks. A business shall not conduct open lot selling for more than 16 weeks per year. Guest retail establishments, of any reasonable item shall be permitted for no more than 14 day per year.

(13) Each period of open lot selling shall require a separate permit application fee and inspection fee.

(14) A business wishing to engage in open lot selling shall first obtain a permit for open lot selling on forms prescribed by the Building Department. A business shall not be issued more than 3 permits per year for open lot selling. The form within this subchapter for permit application is hereby approved for use.

(15) The City Clerk-Treasurer shall collect an application fee, an inspection fee and a service fee per day as set out in the Fee Schedule of this code in connection with each guest retail establishment application for an open lot selling permit or sale of seasonal item.

(16) Businesses, as identified on the approved permit shall comply with the provisions of this section, any falsification or abridge of supporting documents of this permit shall be construed as a breach or denial of this application and shall be refused, withhold or revoked.

(17) Any person, firm and corporation who violates, disobeys, omits, neglects, or refuses to comply with the provisions of this section within 3 days after notification of the violation shall, upon conviction, be fined not less than \$250 and not more than \$1,000 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. The fees and penalty shall be codified in the schedule of fees set out in the Hobart Municipal Code.

(18) All documents attached herein after city approval shall be displayed at each open lot selling area, sale of seasonal items location, or amusement/educational site.  
(Prior Code, § 24-164) (Ord. 94-62; Ord. 97-15; Ord. 2001-41; Ord. 2007-02, § 1)

### **§ 154.308 BUSINESS AND MANUFACTURING DEVELOPMENT REGULATIONS.**

(A) *Lot Standards.* Lot standards for each use dictate the minimum and/or maximum standards that apply to lots with a PUD Zoning District in any combination of Office-Service, Planned Business Park District, or Manufacturing/Light Industry use.

(1) *Office-Service Use.* Minimum and/or maximum standards that apply to lots/parcels/sites with office-service use:

(a) *Minimum Lot Area:* 1 acre

(b) *Minimum Lot Width:* One hundred feet (100'). The minimum lot width is the allowable horizontal distance between the side property lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the front setback line.

(c) *Minimum Lot Frontage:* Fifty feet (50') on a public street. The minimum length of a lot frontage shall be measured between side lot lines at the street right-of-way or

private street easement.

(d) *Maximum Lot coverage:* Fifty-five percent (55%) for all primary and accessory structures, drives and parking.

(2) *Planned Business Park Use.* Minimum and/or maximum standards that apply to lots/parcels/sites with a planned business park use.

(a) *Minimum Lot Area:* 3 acres

(b) *Minimum Lot Width:* One hundred twenty-five feet (125'). The minimum lot width is the allowable horizontal distance between the side property lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the front setback line.

(c) *Minimum Lot Frontage:* Sixty feet (60') on a public street. The minimum length of a lot frontage shall be measured between side lot lines at the street right-of-way or private street easement.

(d) *Maximum Lot coverage:* Sixty-five percent (65%) for all primary and accessory structures, drives and parking.

(3) *Manufacturing and Light Industry Use.* Minimum and/or maximum standards that apply to lots/parcels/sites with manufacturing and light industrial use.

(a) *Minimum Lot Area:* 5 acres

(b) *Minimum Lot Width:* One hundred fifty feet (150'). The minimum lot width is the allowable horizontal distance between the side property lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the front setback line.

(c) *Minimum Lot Frontage:* Seventy feet (70') on a public street. The minimum length of a lot frontage shall be measured between side lot lines at the street right-of-way or private street easement.

(d) *Maximum Lot coverage:* Seventy-five percent (75%) for all primary and accessory structures, drives and parking.

(B) *Yards and Setbacks.* Yard setbacks for each use dictate the minimum and/or maximum standards that apply to lots/parcels/sites in a PUD Zone District with Office-Service, Planned Business Park District (PBP), and/or Manufacturing/Light Industry use.

(1) *Office-Service Use.* Setback standards for each use dictate the minimum and/or maximum standards that apply to lots/ parcels/sites within an office-service use.

(a) *Front.* Minimum of thirty feet (30') from a local street/cul-de-sac, thirty-five feet (35') from a collector street and forty feet (40') from a major arterial. The horizontal space between the front lot line and the front setback line, extending to the side lines of the lot, generally parallel with and measured from the front lot line, defining the area in which no building or structure may be located above ground, except as provided herein.

(b) *Side.* Minimum thirty feet (30'). The horizontal space between the side lot

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lines and the side setback lines, extending to the front and rear lot lines, generally parallel with and measured from each side lot line, defining the area in which no building or structure may be located above ground, except as provided herein. For corner and through lots, any side of a structure that faces a street shall meet front setback requirements.

(c) *Rear*. Minimum forty feet (40'). The horizontal space between the rear lot line and the rear setback line, extending to the side lines of the lot, generally parallel with and measured from the rear lot line, defining the area in which no building or structure may be located above ground except as provided herein. For through lots, the rear of the structure facing a street shall meet front setback requirements.

(2) *Planned Business Park Use*. Setback standards for each use dictate the minimum and/or maximum standards that apply to lots/parcels/sites with a planned business park use.

(a) *Front*. Minimum of thirty-five feet (35') from a local street/cul-de-sac, forty feet (40') from a collector street and forty-five feet (45') from a major arterial. The horizontal space between the front lot line and the front setback line, extending to the side lines of the lot, generally parallel with and measured from the front lot line, defining the area in which no building or structure may be located above ground, except as provided herein.

(b) *Side*. Minimum thirty-five feet (35'). The horizontal space between the side lot lines and the side setback lines, extending to the front and rear lot lines, generally parallel with and measured from each side lot line, defining the area in which no building or structure may be located above ground, except as provided herein. For corner and through lots, any side of a structure that faces a street shall meet front setback requirements.

(c) *Rear*. Minimum forty-five feet (45'). The horizontal space between the rear lot line and the rear setback line, extending to the side lines of the lot, generally parallel with and measured from the rear lot line, defining the area in which no building or structure may be located above ground except as provided herein. For through lots, the rear of the structure facing a street shall meet front setback requirements.

(3) *Manufacturing / Light Industrial Use*. Standards for each use dictate the minimum and/or maximum standards that apply to lots/parcels/sites with a manufacturing and light industrial use.

(a) *Front*. Minimum of forty feet (40') from a local street/cul-de-sac, forty-five feet (45') from a collector street and fifty feet (50') from a major arterial. The horizontal space between the front lot line and the front setback line, extending to the side lines of the lot, generally parallel with and measured from the front lot line, defining the area in which no building or structure may be located above ground, except as provided herein.

(b) *Side*. Minimum forty feet (40'). The horizontal space between the side lot lines and the side setback lines, extending to the front and rear lot lines, generally parallel with and measured from each side lot line, defining the area in which no building or structure may be located above ground, except as provided herein. For corner and through lots, any side of a structure that faces a street shall meet front setback requirements.

(c) *Rear*. Minimum fifty feet (50'). The horizontal space between the rear lot line and the rear setback line, extending to the side lines of the lot, generally parallel with and measured from the rear lot line, defining the area in which no building or structure may be located

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above ground except as provided herein. For through lots, the rear of the structure facing a street shall meet front setback requirements.

(4) *All uses in a PUD Office-Service, Planned Business Park, and/or Manufacturing/Light Industry.* Minimum and/or maximum standards that apply to lots/parcels/sites with an office-service, planned business park, and/or manufacturing/light industry use:

(a) Required front yards may include pedestrian walks, drives, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures. Required side and rear yards may include pedestrian walks, driveways, interior access driveways, interior access drives, off-street parking areas, entrance guard boxes, flag poles, fences, screening walls and similar appurtenant structures.

(b) *Naturally Sensitive Areas Setback.* Forty foot (40') minimum setback distance shall exist when structural development occurs on a lot or parcel that is adjacent to naturally sensitive areas including but not limited to riparian areas and wetlands. The City Planner, or his/her designee may determine if a feature constitutes a naturally sensitive area. This setback shall overlap front, side, and rear setbacks. The setback with the largest width shall apply.

(C) *Maximum Height:* Building height shall be defined as the vertical distance as measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof on the following uses:

(1) *Office Service Uses:*

(a) Maximum height on lots/ parcel/site less than twenty (20) acres shall not exceed thirty feet (30') in height.

(b) Maximum height on lots/parcel/site twenty (20) acres or greater shall not exceed forty feet (40') in height.

(2) *Planned Business Park Uses:*

(a) Maximum height on lots/parcel/site less than twenty (20) acres shall not exceed thirty-five feet (35') in height.

(b) Maximum height on lots/parcel/site twenty (20) acres or greater shall not exceed forty-five feet (45') in height.

(3) *Manufacturing and Light Industrial Uses:*

(a) Maximum height on lots/parcel/site less than twenty (20) acres shall not exceed forty feet (40') in height.

(b) Maximum height on lots/parcel/site twenty (20) acres or greater shall not exceed fifty feet (50') in height.

(Ord. 2019-15, § 5)

(D) *Outside Sales, Display, and Storage.*



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(1) All office-service, planned business park, and/or manufacturing/light industry uses services, processing or storage shall be conducted in completely enclosed buildings unless outside/outdoor sales, displays, and storage complies with the indicated regulation hereafter.

(2) Outside/outdoor sales, displays, and storage, uses, service, processing or storage within an office-service, planned business park, and/or manufacturing/light industry use shall be conducted in completely enclosed buildings, except when outside/outdoor sales and display are in conjunction with “drive-in/drive-thru” establishments type use offering goods and services directly to customers waiting in parked motor vehicles, and shall be in compliance with open lot selling regulations when applicable.

(a) Outside/outdoor sales, displays, and storage is a minimum of one hundred fifty feet (150’) from any residential district, and then only if the open storage is completely non-visible by reason of a wall or opaque fence, or as otherwise indicated hereafter.

(b) Outside/outdoor sales, displays, and storage approved and documented permanent outdoor sales, display, and storage areas shall be permitted accessory uses, tied to the primary use and in compliance with the following and open lot selling regulations when applicable.

(c) Outside/outdoor sales, displays, and storage shall not be located in any setbacks, easements, right-of-way, or off-street parking or loading service areas.

(d) Outside/outdoor sales, displays, and storage shall be located behind the front or exterior wall of the main building facing any street and when applicable shall comply with all lot requirements in Hobart Municipal Code § 154.307.

(e) Outside/outdoor sales, displays, and storage shall not cover more than five percent (5%) of the lot area or an area in excess of twice the ground floor area of the main building on the lot, whichever is less.

(f) Outside/outdoor sales, displays and storage shall be screened according to the provisions of this section.

(g) No outside/outdoor sales, displays, and storage shall occur within any right-of-way.

(h) Outside/outdoor sales, displays, and storage areas, regardless of size, shall be hard-surfaced, dust-free pavement. The pavement type and thickness shall be reviewed at the Site Plan Review Committee prior to obtaining Plan Commission approval, taking into consideration soil conditions and traffic loading. Pervious pavements and pavers including durable materials, suitable for parking such as cobblestones, brick, concrete formed blocks or cut stone, the system of which is specifically installed and designed for vehicular loads shall also be considered. Sales and display areas shall be of concrete, asphaltic pavement, or other permanent paving material and shall be maintained in good condition.

1. The maximum area for outdoor sales and display shall not exceed ten percent (10%) of the primary structure or primary tenant space.

2. Every approved permanent outdoor sales and display area shall be within twenty feet (20’) of the primary structure.

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3. Screening shall be provided for outdoor sales and display areas that are greater than five hundred square feet (500sf) in size to reduce visibility of the outdoor sales and displays from the parking lot and primary roadways by installing a minimum twenty-four inch (24") opaque wall constructed from the same building material as the primary structure, and integrated into the design of the primary structure. The wall may be topped with a transparent fence.

4. Outdoor sale and display of merchandise within an area of five hundred square feet (500sf) or less shall not block handicapped parking areas, parking lot access aisles, and shall maintain a forty-two inch (42") clearance on all sidewalks.

(i) A Type 1 landscaped buffer yard as described in §154.200(E) may also be used. Plant material may be clustered for better view of displays.

(j) *Screening.* Outdoor storage of the types described below shall be screened with an opaque fence, split face block wall, continuous evergreen screen, or a combination of the three. The screen must measure a minimum of eight feet (8') in height. The fences or walls shall be compatible with or constructed from the same building material as the primary structure, and integrated into the design of the primary structure.

(k) *Storage in Required Setbacks.* No portion of any setback shall be used for permanent storage except during construction and in accordance with the terms of this section.

(3) Bulk storage for any use in which bulk storage is permitted for structures, buildings, or aboveground tanks used for bulk storage of flammable or explosive liquids, gases or other materials shall meet the screening requirements in § 154.423(G).

(a) Bulk storage shall not be located closer than fifty feet (50') to the property line.

(b) Bulk storage shall be enclosed within an opaque fence, or equivalent, of not less than eight feet (8') high, except as otherwise required by Hobart Municipal Code § 154.308(D) *Outdoor Sales, Display, and Storage* (this section).

(c) Bulk storage lots shall be screened according to the provisions of this section.

(4) However, open off-street loading facilities and open off-street parking of employee, customer/consumer motor vehicles may be unenclosed, except for the screening of parking and loading facilities as may be required under the provisions as set forth herein. (Ord. 2019-15, § 6)

### (E) *Off-Street Parking and Loading.*

(1) *Parking:* The Hobart Municipal Code §§ 154.355–154.361, as amended, sets forth minimum requirements for parking lot design and buffering. Parking areas shall be planned to transition from the streetscape to the structure and to provide for adequate planting and safe pedestrian movement. The following regulations supplement those requirements.

(a) *Minimum Parking Requirements:*

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1. One (1) space per one thousand square feet (1,000) of gross floor area or one (1) space for each two employees on the premises during the largest shift, whichever is greater.

2. Parking areas, wherever possible, shall be located to the side and rear of structures and away from streets and highways, thereby using buildings or other architectural elements as a visual barrier

3. Parking spaces shall not directly abut structures. Provide adequate space fifteen feet (15') minimum for walkways and landscaping between parking and structures.

4. Landscape plantings and trees shall be required on the perimeter and within parking lots to reduce the visual impact of large open areas of pavement and to reduce the buildup of heat on dark colored paving (heat island effect) and reduce storm water runoff. Refer to the City of Hobart Design Guidelines.

(2) *Loading Berths:* Hobart Municipal Code §§ 154.360 and 154.361 sets forth minimum requirements for loading berths. The following regulations supplement those requirements:

(a) Loading areas shall be located as specified in the above and:

1. Loading berths shall be designed with a minimum sixty foot (60') concrete apron area immediately adjacent to the structure.

2. Loading berths shall provide for a minimum total depth of one hundred thirty feet (130') of clear area pavement (no parking included).

3. Loading berths shall be designed with a minimum twelve foot (12') by sixty foot (60') clear area dedicated for ingress-egress to the loading berth.

4. Loading berths shall be prohibited within two hundred feet (200') of a residential use.

(b) Loading areas shall be recessed into the mass of the building or creatively blend it into the landscape using building offsets, screen walls, berms and other design techniques.

(c) All loading areas and delivery doors shall be screened so as not to be visible from, or cast light into any adjacent residential area while vehicles are parked or moving. Landscaping can be used to supplement the screening.

(Ord. 2019-15, § 7)

(F) Removed.

(Ord. 2019-15, § 8)

(G) Removed.

(Ord. 2019-15, § 9)

(H) Removed.

(Ord. 2019-15, § 10)

(I) Removed.  
(Ord. 2019-15, § 11)

(J) Removed.  
(Ord. 2019-15, § 12)

(K) Removed.  
(Ord. 2019-15, § 13)

(L) Removed.  
(Ord. 2019-15, § 14)

(M) Removed.  
(Ord. 2019-15, § 15)

(N) Removed.  
(Ord. 2019-15, § 16)

(O) Removed.  
(Ord. 2019-15, § 17)

(Ord. 2016-31, § 2; Ord. 2019-15, § 4)

**§ 154.309 RULES AND PROCEDURES GOVERNING MODIFICATIONS TO AND WAIVERS OF PERMITTED USES, DEVELOPMENT REGULATIONS, AND DESIGN GUIDELINES.**

(A) This section applies to all petitions or applications to the Plan Commission for waiver or modification of any permitted uses, development regulations and City of Hobart Design Guidelines applying to Planned Unit Development Districts. The Plan Commission is authorized to establish written rules, not inconsistent with this section, governing the nature of proceedings to grant an approval or waiver or make a modification under this section. Plan Commission rules and procedures shall govern as to all issues and proceedings not specifically covered by this Section or rules adopted by the Commission under the authority of this subsection.

(B) For the purposes of this section, applications and petitions to the Plan Commission for waiver or modification of any permitted uses, development regulations or City of Hobart Design Guidelines applying to Planned Unit Development Districts shall be classified as “minor” if the modification or waiver sought is insubstantial in light of the totality of the project, will not add or change uses permitted in an existing PUD District, and does not affect public safety or convenience.

(C) A public hearing before the Plan Commission shall be held before any petition or application for waiver or modification of any permitted uses, development regulations or City of Hobart Design Guidelines applying to Planned Unit Development Districts is granted. Notice of the public hearing shall be given in the same manner as notice given under I.C. §36-7-4-604(b) and (c). The hearing shall be conducted at a public meeting of the Plan Commission, and every interested party and member of the public shall be heard. The Plan Commission may adopt reasonable time limitations upon presentations to the Commission during the hearing, and the

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Commission shall allow written statements to be submitted in lieu of oral statements. Notwithstanding the foregoing language of this subsection, minor petitions or applications for waiver or modification of development regulations or City of Hobart Design Guidelines applying to Planned Unit Development Districts may be granted without public hearing pursuant to the Plan Commission's customary rules of procedure.

(D) Appeal may be taken by a petitioner or applicant from a decision of the Plan Commission upon the petition or application under this section to the Common Council by filing a request for appeal with the Clerk-Treasurer, in writing, who shall cause the request to be placed on the agenda for the Council's next regularly scheduled public meeting. The request shall detail the decision appealed from, the grounds for the appeal, and a statement of any supporting laws or facts. The appellant may appear before the Council at the meeting and be heard concerning the appeal. The Council shall issue its ruling on the appeal by majority vote which will be reduced to writing, signed by the presiding officer, and served upon the appellant and the Plan Commission. The Council may grant the relief requested, sustain the Plan Commission's decision, or remand the matter to the Plan Commission for further action consistent with the Council's directions.

(Ord. 2018-23, §3; Ord. 2019-15, §18)

### ***MOBILE HOMES AND MOBILE HOME PARKS***

#### **§ 154.320 PURPOSE.**

The purpose of this subchapter is to establish the criteria for determining the minimum acceptable standards for the development of a mobile home park and the placement thereon of mobile homes, as well as the accessory services primarily intended for the use of residents of the mobile home park which may be allowed by ordinance as part of a planned unit development district-mobile home park, as set forth herein.

(Prior Code, § 24-168) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.321 GENERAL REQUIREMENTS.**

The following general requirements applicable to mobile home park.

(A) Each mobile home park shall provide for not less than 75 mobile home sites of not less than 4,500 square feet each.

(B) No mobile home park shall be located within 400 feet of an R-1, R-2 or R-3 residential zoning district.

(C) Each mobile home park shall be located so as to have direct access to a street designated as an arterial road on the thoroughfare plan, as part of the City of Hobart Master Plan as heretofore or hereafter adopted and from time to time amended. Two copies of the thoroughfare plan shall be kept on file and available for public inspection in the office of the city's Clerk-Treasurer.

(D) Each mobile home park shall have street lights of sufficient number, placement and illumination to permit safe movement of vehicles and pedestrians at night.

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(E) Each mobile home park shall contain a greenbelt of not less than 20 feet in width adjacent to all abutting properties and public rights-of-way. The Plan Commission may recommend and the Common Council may approve as part of the planned unit development district-mobile home park, the erection of an obscuring wall or fence not less than 4 feet 6 inches, but not more than 6 feet in height to be built in combination with or in lieu of a greenbelt.

(F) Each mobile home park shall provide and contain an area of land not less than the greater of 250 square feet multiplied by the number of mobile home sites or of 20,000 square feet, exclusive of the greenbelt, for recreational purposes. The area shall be maintained, and as part of the planned unit development district-mobile home park may be required to be graded, sodded and otherwise developed in a manner appropriate for recreational use by the residents of the mobile home park.

(G) Each mobile home park shall be developed so that more than 80% of the interior floor area of all the mobile homes and all the other buildings combined in the development is used for mobile home residence or such accessory uses customarily related to mobile homes, with the balance of the interior floor area, if any, being intended for such business, commercial and community uses as reasonably relate to the support or convenience of the mobile home park residents.

(H) Unless otherwise authorized as part of the planned unit development, each building or structure within a mobile home park, other than mobile homes, shall have a front and rear yard of not less than 40 feet each and shall have side yards of not less than 20 feet each.

(I) Each mobile home site shall have a front yard of not less than 20 feet, a rear yard of not less than 15 feet, an entrance side yard of not less than 20 feet and an opposite side yard of not less than 10 feet. Yards shall be measured in depth at the shortest distance from each mobile home site boundary on a line perpendicular to such boundary, to the nearest edge of the mobile home.

(J) The boundaries of each mobile home site shall be clearly and permanently designated; fences, if any, along the side and rear yards, shall be of uniform height not in excess of 42 inches.

(K) All fuel oil, gas and other similar tanks on any mobile home site shall be of uniform size, appearance and location, screened from the public view, and shall be equipped with vent pipes and fused valves.

(L) There shall be no storage of any kind beneath any mobile home in a mobile home park. Boats, snowmobiles, similar recreational equipment and storage structures may be allowed or stored on a mobile home site only if the following conditions are continuously met.

(1) The items shall be placed or stored only in the rear yards.

(2) The items shall be placed or stored no closer than 4 feet from the nearest mobile home site boundary.

(3) The items shall be maintained so as not to be unsightly and/or to have a detrimental affect on the appearance of the mobile home park.

(4) The aggregate area occupied by such items on any 1 mobile home site shall not

exceed 200 square feet.  
(Prior Code, § 24-169) (Ord. 97-15; Ord. 2001-41)

**§ 154.322 COMPLIANCE REQUIRED.**

The following standards for development of a mobile home park are required and must be complied with in the request for a planned unit development district-mobile home park:

(A) *Suitability of land.* Land subject to flooding and land deemed by the Plan Commission to be unsuitable for platting because of topography, drainage or for other reasons, shall not be eligible for use as a mobile home park. Land deemed unsuitable for platting shall include, but not be limited to:

(1) Land with an elevation less than 4 feet above the highest ground water level; provided that, land with an elevation of between 2 and 4 feet above the highest ground water level may comprise not more than 10% of the minimum lot area of a mobile home site.

(2) Land with an elevation less than 2 feet above the approximate high water elevation of any lake, stream or swamp affecting the plat; provided that, the land may comprise not more than 10% of the minimum lot area of a mobile home site.

(B) *Streets.*

(1) Streets within the mobile home park shall be so designed and developed to take into consideration their relationship to existing and planned streets in the area surrounding the mobile home park, as well as to topographical conditions and natural terrain features such as streams, wetlands and existing tree growth. Street jogs shall be avoided. Half streets shall be prohibited.

(2) The internal streets shall be so arranged as to provide access to all mobile home sites. Each mobile home site shall have frontage on a street.

(3) The minimum sight distance on all streets within the mobile home park shall be 200 feet.

(4) The minimum center line radius for horizontal curves on all streets within the mobile home park shall be 100 feet.

(5) Intersecting streets shall be laid out as nearly at right angles as possible with no angle of intersection being less than 60 degrees. The minimum corner radius at the curbs shall be 20 feet, except that a larger radius may be required where the angle of intersection is less than 75 degrees.

(6) Local streets within a mobile home park shall have not less than 30 feet of roadway width from back to back of curbs.

(7) Dead end streets shall be not more than 500 feet in length and shall be provided with a turn around (cul de sac) having a minimum roadway radius of at least 35 feet.

(8) Minimum street grade shall not be less than one half of 0.5%. Maximum street

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grade shall not be more than 8%.

(9) All changes in grade shall be connected with vertical curve with minimum lengths of 8 times the algebraic difference in slope of the street grades.

(10) Concrete curb and gutter shall be provided on all streets.

(11) Sidewalks shall be provided within a mobile home park and shall not be less than 4 feet in width. Walks shall be provided at least on 1 side of all streets in the mobile home site areas; in front of all mobile home park accessory service areas, the club house, recreational areas and along routes leading to aforesaid areas.

(C) *Easements.* Easements shall be provided, where necessary, for overhead or underground utilities, watercourses, drainage ways, channels or streams. Width of each easement shall be a minimum of 20 feet.

(D) *Blocks.* Blocks within the mobile home park shall be designed so as to meet the following characteristics:

(1) Block length shall not exceed 1,000 feet nor be less than 500 feet.

(2) Pedestrian crosswalks not less than 6 feet wide in a 10-foot easement may be required in blocks longer than 600 feet.

(3) Blocks shall be wide enough to allow 2 tiers of lots of at least minimum depth, except where there is frontage on major streets, or where prevented by topographic conditions or property dimensions, in which case the Plan Commission may approve a single tier of lots of at least minimum depth.

(E) *Lots.* Lots within the mobile home park shall be designed so as to meet the following characteristics.

(1) Lots in a mobile home site shall have an area of not less than 4,500 square feet. The least lot dimension shall not be less than 40 feet.

(2) Double frontage lots shall be avoided, except for frontage along a major street and for unusual topographic features, in which case double frontage lots may be approved by the Plan Commission; provided that, access to the lot is limited to the interior street and screen planting is provided along the rear property line.

(3) Corner lots shall be sufficiently wider to provide for the width of a front yard or entrance side yard required by this chapter.  
(Prior Code, § 24-170) (Ord. 97-15; Ord. 2001-41)

### § 154.323 IMPROVEMENT STANDARDS.

The following standards for improvements in a mobile home park are required and must be complied with in the request for a planned unit development district-mobile home park.

(A) *General.* Every mobile home park shall be required to install sanitary sewers; storm



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sewers or alternative stormwater drainage system; water main distribution and fire protection system; street pavement with curb, gutters and sidewalks; and other improvements deemed necessary by the Plan Commission.

(B) *Sanitary sewers.* Sanitary sewers connected to a municipal sewage system shall be constructed in accordance with current City of Hobart standards and specifications. Septic systems and private treatment plant systems will not be approved.

(C) *Storm sewers.* A storm sewer system to collect all runoff water from the site shall be constructed in accordance with current City of Hobart standards and specifications. Such system shall discharge to a public storm sewer, water course, drainage way, retention or detention area or other acceptable receptacle. Care shall be taken to protect the upstream and downstream areas from flood hazard that may be caused by the development.

(D) *Water mains.* Water mains shall be placed to serve all parcels and lots proposed for development. Mains shall be sized to provide adequate water supply for fire protection. Hydrants for fire protection shall be provided at the number and location agreed to by the Hobart City Fire Department.

(E) *Streets, curbs, gutters and walks.* Streets, curbs, gutter and walks shall be provided according to the following improvement standards:

(1) Street pavement shall be constructed of a minimum of 8 inches of compacted aggregate base, 2 inches of hot asphalt binder and 1 inch of hot asphalt surface. Where traffic loads or sub-grade soils warrant, the pavement and/or material may be increased or changed based upon design criteria.

(2) Concrete curb and gutter shall be constructed of 3,500 pounds per square inch concrete with proper air entrainment. Reinforcing steel may be required if subgrade conditions warrant. Curb and gutter shall have a minimum section 8-1/2 inches at front edge, 8 inches at gutter, 12 inches at back of curb, and shall be a minimum of 18 inches wide.

(3) Concrete walk shall be a minimum of 4 feet wide and 4 inches thick, constructed of 3,500 pounds per square inch concrete with proper air entrainment on a prepared sub-grade with a minimum of 3-inch thick granular material.  
(Prior Code, § 24-171) (Ord. 97-15; Ord. 2001-41)

### ***TEMPORARY CONSTRUCTION TRAILERS***

#### **§ 154.340 DEFINITIONS.**

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

***TEMPORARY CONSTRUCTION TRAILERS.*** A portable, self-contained structure, which is intended to serve as a temporary office in connection with ongoing construction to provide office space, records, plans and the like and be equipped with HAV, telephone and electricity.  
(Prior Code, § 24-173) (Ord. 94-61; Ord. 97-15; Ord. 2001-41)

**§ 154.341 RESTRICTIONS.**

Temporary construction trailers shall be permitted subject to the following restrictions:

(A) Temporary construction trailers shall only be permitted in an M-1, M-2, B-3, B-2, B-1, R-4 and R-3 Zoning Districts.

(B) Temporary construction trailers shall not infringe on the side, front or rear yards required by this chapter or encroach closer to residential property than the existing building.

(C) Any temporary building, structure or similar facility used as a temporary construction trailer shall meet all city requirements for temporary structures. They must be dismantled and removed from the site within 30 days of expiration of the permit.

(D) Temporary construction trailers shall not infringe on fire lanes, impede access of emergency vehicles or create any fire hazard under the Hobart Municipal Code or applicable fire safety regulations.

(E) Temporary construction trailers shall not create a traffic or safety hazard under the Hobart Municipal Code.

(F) Temporary construction trailers shall only be permitted as an accessory use to an on-going permitted construction project, of limited duration.

(G) Temporary construction trailers shall be permitted for no more than 52 continuous weeks.

(H) A business wishing to locate a temporary construction trailer shall first obtain a permit on forms prescribed by the Building Department. A business shall not be issued more than 2 consecutive 1 year permits, for the same construction site.

(I) The city's Clerk-Treasurer shall collect an application fee as set out in the Fee Schedule of this code and an inspection fee as set out in the Fee Schedule of this code in connection with each application for a temporary construction trailer permit. The form of permit application is hereby approved for use and is attached the ordinance codified herein.

(Prior Code, § 24-174) (Ord. 94-61; Ord. 97-15; Ord. 2001-41)

***OFF-STREET PARKING AND LOADING***

**§ 154.355 PURPOSE.**

The purpose of this subchapter is to alleviate or prevent the congestion of the public streets and to promote safety and welfare of the public by establishing minimum requirements for the off-street parking and the loading and unloading of motor vehicles in accordance with the use to which the property is put.

(Prior Code, § 24-176) (Ord. 94-61; Ord. 97-15; Ord. 2001-41)

**§ 154.356 GENERAL PROVISIONS.**

The off-street parking and loading provisions of this chapter shall apply as follows.

(A) *When facilities required.* For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking and loading facilities shall be provided as required by the regulations of the zoning district within which the buildings or uses are located. However, where a permit has been issued prior to the effective date of this chapter; and provided, construction is begun within 1 year of such effective date, and diligently prosecuted to completion, parking and loading facilities as required hereinafter need not be provided.

(B) *Increase in intensity of use of building, structure or premises.* When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required off-street parking or loading facilities, parking, parking and loading facilities as required herein shall be provided for such increase in intensity of use.

(C) *Changes in use of building or structure.* Whenever the existing use of a building or structure shall be changed hereafter to a new use, parking or loading facilities shall be provided as required for the new use. However, if the building or structure was erected prior to the effective date of this chapter, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking and loading provisions of this chapter.

(D) *Existing parking and loading facilities.* Accessory off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on the effective date of the chapter or were provided voluntarily after such effective date shall not hereafter be reduced below, or if already less than, shall not further be reduced below, the requirements of this chapter for a similar new use or building.

(E) *Permissive parking and loading facilities.* Nothing in this chapter shall be deemed to prevent the voluntary establishment of off-street parking and loading facilities to serve any existing use of land or buildings; provided that, all regulations herein governing the location, design, improvement and operation of the facilities are adhered to.

(F) *Damage or destruction.* For any conforming or legally non-conforming use or building which is in existence on the effective date of this chapter, which subsequent thereto is damaged or destroyed by fire, collapse, explosion or other cause, and which is reconstructed, reestablished or repaired, off-street parking or loading facilities equivalent to any maintained at the time of the damage or destruction shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this chapter for equivalent new uses or construction.

(G) *Submission of plot plan.* Any application for permit or for certificate of zoning compliance where no permit is required, shall include therewith a plot plan, drawn to scale and fully dimensioned, showing any parking or loading facilities to be provided in compliance with this chapter.

(Prior Code, § 24-177) (Ord. 94-61; Ord. 97-15; Ord. 2001-41)

**§ 154.357 LOCATION OF ACCESSORY OFF-STREET PARKING FACILITIES.**

The location of off-street parking spaces in relation to the use served shall be prescribed hereinafter. All distances specified shall be walking distance between the parking space and the main entrance to the use served.

(A) *For uses in a residence district.* Parking spaces accessory to dwellings shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings may be located on a lot adjacent to, or directly across a street or alley from, the lot occupied by the use served, but in no case at a distance in excess of 300 feet from such use.

(B) *For uses in Office Service, Business, Planned Business Park, or Manufacturing Districts.* All required parking spaces shall be within one thousand feet (1,000') of the use served, except for spaces accessory to dwelling units (including temporary transient and overnight travel use such as: bed and breakfast, hotel and similar accommodations) which shall be within three hundred feet (300') of the use served. However, no parking space accessory to a use in Office Service, Business, Planned Business Park or Manufacturing Districts shall be located in a Residence District; except, that private, free, off-street parking accessory to residential uses in such districts and municipal parking lots may be allowed by action of the Board of Zoning Appeals, within two hundred feet (200') of and adjacent to any Office Service, Business, Planned Business Park or Manufacturing Districts.

(1) Parking areas, wherever possible, shall be located to the side and rear of structures and away from streets and highways, thereby using buildings or other architectural elements as a visual barrier.

(2) Parking spaces shall not directly abut structures. Provide adequate space fifteen feet (15') minimum for walkways and landscaping between parking and structures.

(Prior Code, § 24-178) (Ord. 94-61; Ord. 97-15; Ord. 2001-41; Ord. 2018-04, § 1)

**§ 154.358 ADDITIONAL PARKING REGULATIONS.**

Off-street parking facilities shall be subject to the following additional parking regulations.

(A) *Off-street parking regulations.* Off-street parking shall be governed by the following:

(1) *Location.* In all zoning classifications, all off-street parking shall be in an enclosed parking structure or on an exterior improved surface, except as set forth in this subsection.

(2) *Weight.* In R-1, R-2, or R-3 zoning classifications, off-street parking facilities shall be used solely for the parking of passenger automobiles, trailers or other vehicles with a Gross Vehicle Weight Rating of 16,000 pounds or less.

(3) *Ownership.* In R-1, R-2, or R-3 zoning classifications, vehicles and trailers parked in driveways or off-street parking facilities must be owned, leased or rented by an occupant or the employer of an occupant of the dwelling structure to which such facility, driveway or off-street

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parking location is accessory for guests, customers, or invitees of such occupant.

(4) *Commercial Vehicles.* In R-1, R-2 and R-3 zoning classifications, parking facilities accessory to residential structures, including driveways and off-street parking locations of detached single dwellings or multi-units shall not be used for the overnight parking or storage of commercial vehicles or for the parking of automobiles belonging to employees, owners, tenants, visitors, or customers of business or manufacturing establishments, except that each occupant of a property zoned R-1, R-2 or R-3 shall be allowed to park one (1) commercial vehicle owned, leased or rented by the occupant or the employer of the occupant of the dwelling structure to which such facility, driveway or off-street parking location is accessory.

(5) *Vehicle Condition.* In all zoning classifications, vehicles and trailers parked in a driveway or unenclosed off-street parking location must be licensed and in running order unless parked at a commercial business where it is being repaired.

(6) *Parking Surface.* In all zoning classifications, parking of all vehicles and trailers in the front, side or rear yards must be on an improved off-street parking location properly constructed pursuant to the requirements of subsection (E) and (H) of this section, except that:

(a) in R-1, R-2 and R-3 zoned districts, parcels of less than ten thousand square feet (10,000 sq. ft.), a single trailer, or on parcels of ten thousand square feet (10,000 sq. ft.) but less than 2 acres, up to two (2) trailers, or on parcels of two (2) acres or more, up to five (5) trailers, that are owned by the resident and in operating condition may be parked on unimproved unenclosed off-street parking locations in rear yards unless forbidden by applicable restrictive covenants; and

(b) in agriculturally zoned parcels farm equipment may be parked on any surface if in operating condition.

(7) *Enclosed facilities.* In all zoning classifications, there are no restrictions on the number or type of vehicles or trailers that may be parked in an enclosed parking facility.

(Ord. 2009-14, §3; Ord. 2014-42, §1; Ord. 2015-11; Ord. 2015-27; Ord. 2016-37, § 3; Ord. 2021-36)

(B) *Joint parking facilities.* Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted; provided that, the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.

(C) *Computation.* When the determination of the number of off-street parking spaces required by this chapter results in the requirement of a fractional space, only fractions of 1/2 or less may be disregarded, while a fraction in excess of 1/2 shall be counted as 1 parking space.

(D) *Size.* A required off-street parking space shall be at least 9 feet in width and at least 20 feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. The space shall have a vertical distance of at least 7 feet.

(E) *Access.*  
(Ord. 94-63)

(1) Each required off-street parking space shall open directly upon an aisle or

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driveway of a width and design as to provide safe and efficient means of vehicular access to the parking space, and pedestrian access to sidewalks. The width of the driveway through the front yard of the above-referenced dwellings shall not exceed nine feet (9') wider than the width of the dwelling's garage and one-half the width of the lot.

(Ord. 2014-42, §2)

(2) All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. All vehicular access roadways or driveways shall be constructed of either portland cement placed on suitable granular base or bituminous asphaltic concrete placed on aggregate base. Residential driveways shall be constructed using a minimum thickness of 5 inches if made of portland cement placed on a minimum of 4 inches of granular base, or a minimum of 2 inches of hot asphaltic concrete placed over 6 inches of compacted aggregate. The thickness of non-residential driveways and access roadways shall be determined by traffic load requirements and shall be approved by the city's Engineer. Upon a showing of hardship, the Board of Public Works and Safety may waive the requirement that all access roads and driveways be constructed as defined above, however, in all cases at least the first 50 feet immediately adjacent to the public street must be surfaced as this section requires.

(Ord. 2001-10)

(3) In a residential district there shall be no more than 1 cut for access to the street for each 1-family detached dwelling and no more than 2 cuts for access to the street for all multifamily buildings. In the event that a lot has frontage on both an alley and a street, there may be permitted 1 additional cut for access from the alley. Each cut for access to the street or alley in a residential district shall not exceed the maximum width of 26 feet, for up to a distance of 40 feet measured from the actual garage door to the curb line, or edge of street where there is no curb. There shall be permitted an additional 10 feet of transitional taper, if necessary, to reduce the driveway width gradually. The width of the drive beyond the taper shall not exceed 18 feet. No portion of the cut shall be closer than 30 feet to intersecting street lines. In addition, where the driveway meets the curb, or edge of street where there is no curb, a maximum of 2 feet of additional width may be added on each side of the driveway. The additional 2 feet of width shall be installed in the shape of a triangle or radius, whose width at the property line shall meet the permitted width of the driveway at that point. In no case shall the width of the driveway installed within the required front yard result in more than 50% lot coverage of this yard.

(4) In a non-residential district there shall be no more than 2 cuts for access to the street for each principal building, each of which shall not exceed the maximum width of 20 feet.

(5) Upon a showing of hardship and upon a showing that it will promote the public safety, convenience and welfare, the Board of Public Works and Safety may allow for additional cuts or increase the maximum width of a driveway cut in non-residential districts.

(6) A person aggrieved by a decision of the Board of Public Works and Safety under this section, may appeal the decision to the Board of Zoning Appeals in accordance with I.C. 36-7-4918.1 *et seq.*

(F) *In yards.* Off-street parking required for uses permitted in residential districts may be located in a required rear or side yard, but not in a required front yard, except on driveways and off-street parking locations, as illustrated in subsection (H) of this section. Off-street parking for permitted uses in business or manufacturing districts may be located in a required rear or side yard, except for the 10 feet adjacent to the rear or side lot line adjacent to a residential district,

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and in the front yard except for the 10 feet adjacent to the front lot line.  
(Ord. 2014-42, §3)

(G) *Design and maintenance.* Off-street parking facilities shall observe the following design and maintenance regulations.

(1) *Open and enclosed parking spaces.* Accessory parking spaces located on the same lot as occupied by the use served may be open to the sky or enclosed by a building. Accessory parking spaces located in a residence district elsewhere than on the same lot occupied by the use served shall be open to the sky except when otherwise allowed.

(2) *Surfacing.* All open off-street parking areas that are improved shall be improved with either a minimum of 5 inches of portland cement or a compacted macadam or equal base, not less than 4 inches thick, surfaced with asphaltic concrete or some comparable all-weather, dustless material.  
(Ord. 2014-42, § 4)

(3) *Screening and landscaping.* Parking lots in all B, OS, PBP, M and PUD districts are subject to the landscaping regulations of Hobart Municipal Code § 154.423(E). In all other districts, all open automobile parking areas that contain more than ten (10) parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residential district or any institutional property by a wall, fence or densely planted compact hedge not less than five feet (5') nor more than seven feet (7') in height. The required screening shall conform with the front yard requirements of the district in which the parking is located. Any business or manufacturing off-street parking area located in the front yard shall be screened from the street by a ten foot (10') planting area which will effectively screen the parked cars. The Plan Commission shall approve the landscaping plan, prior to the issuance of a building permit.  
(Ord. 2014-42, §4; Ord. 2018-04, § 2; Ord. 2019-16, § 1)

(4) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as to not create a nuisance.

(5) *Signs.* Accessory signs are permitted on parking areas.

(6) *Repair and service.* No motor vehicle repair work of any kind shall be permitted in conjunction with accessory off-street parking facilities provided in a residence district.

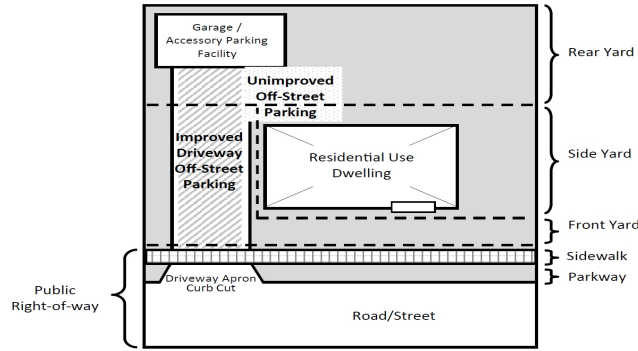
(7) *Fuel sales.* The sale of gasoline, diesel fuel or motor oil in conjunction with accessory off-street parking facilities is not permitted in any residence district.

(8) *Floor area exemptions.* When 2 or more uses are located on the same zoning lot, only 1 exemption in terms of floor area, as set forth herein, shall be taken.

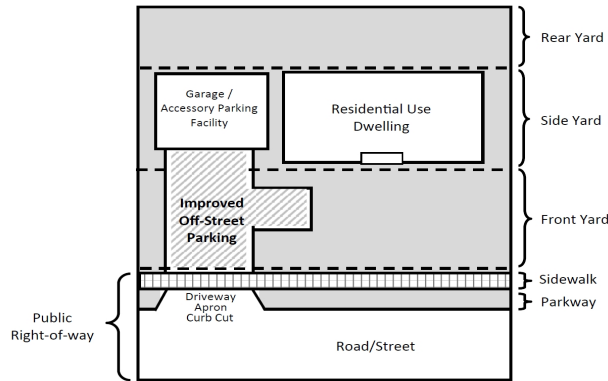
(H) *Illustrations of Permitted Off-Street Parking location for Residential Zones R-1,R-2,R-3:* Note that the drawings are for illustrative purposes only, the language of the Code controls.

(1) *Detached accessory parking facility with unimproved rear yard off-street parking:*

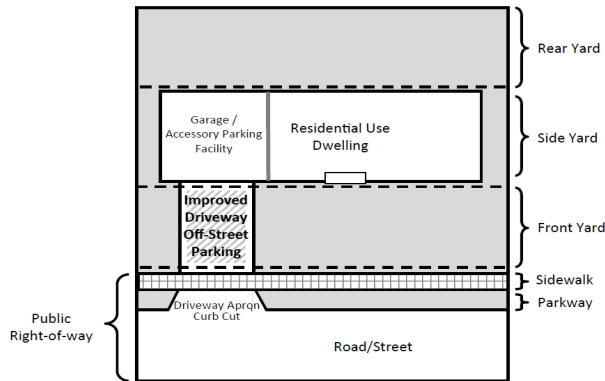
**Hobart - Land Usage**



(2) *Detached accessory parking facility with improved front yard off-street parking location:*



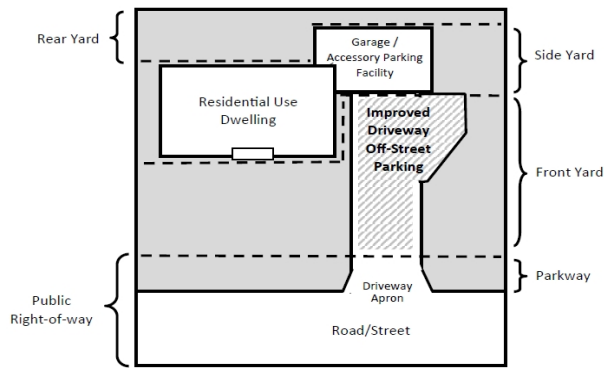
(3) *Attached accessory parking facility with improved front yard off-street parking:*



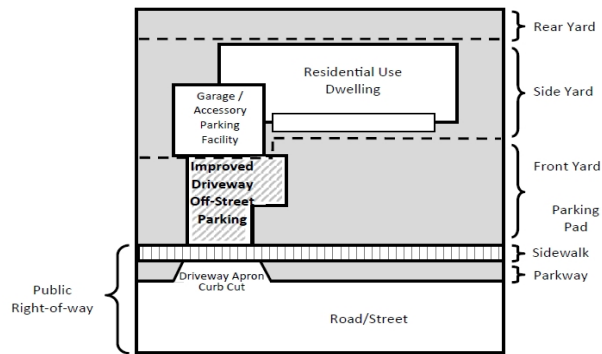
(4) *Rear attached accessory parking facility with improved front yard off-street parking:*



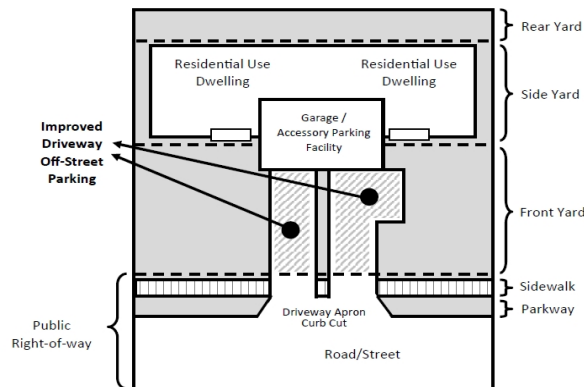
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(5) *Front attached accessory parking facility with improved front yard off-street parking location:*

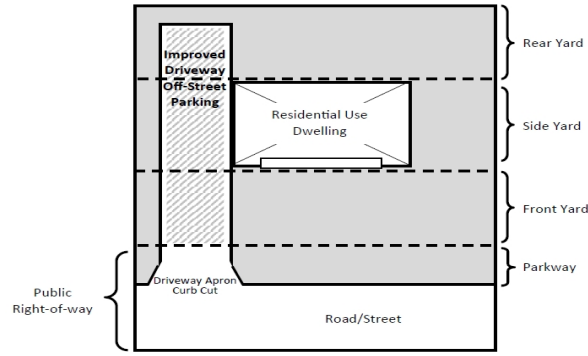


(6) *Multi-unit dwelling with attached accessory parking facility with improved front yard off-street parking location:*

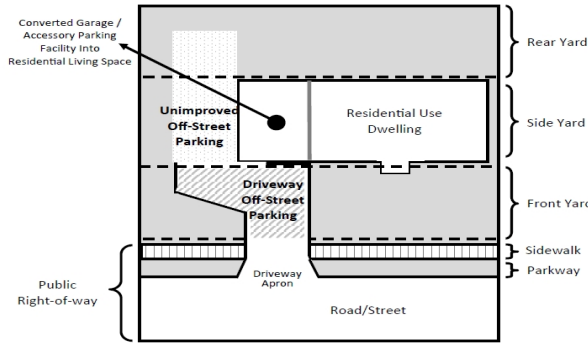


(7) *No accessory parking facility with front, side, and rear yard improved off-street parking location:*

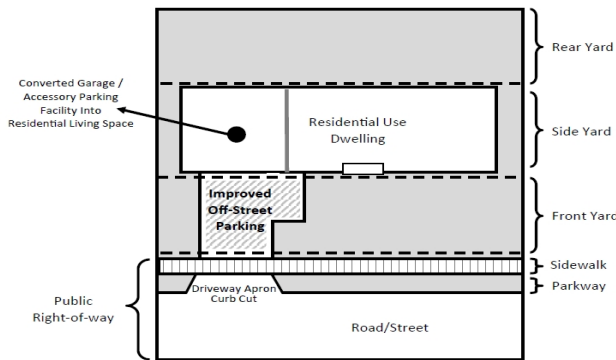
**Hobart - Land Usage**



(8) *Converted accessory parking facility into living space with improved front yard off-street parking facility and unimproved side and rear yard off-street parking location:*



(9) *Converted accessory parking facility into living space with improved front yard off-street parking location:*



(Prior Code, § 24-179) (Ord. 94-61; Ord. 97-15; Ord. 2001-41; Ord. 2014-42, § 5; Ord. 2015-11; Ord. 2015-27; Ord. 2016-37)

**§ 154.359 SCHEDULE OF PARKING REQUIREMENTS.**

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For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required on any employee basis shall be based on the maximum number of employees on duty, or residing, or both on the premises at any one time.

### (A) Residential uses.

(1) Lodging houses: 1 parking space shall be provided for each 2 lodging rooms, plus 1 space for the owner or manager.

(2) Mobile home parks: 2 parking spaces shall be provided on each mobile home site, plus 1 space for the manager and each employee.

(3) Multiple-family dwellings, including apartment-hotels: 2 parking spaces shall be provided for every 1 dwelling unit. For lodging rooms located in an apartment-hotel, 1 parking space shall be provided for each 2 lodging rooms, plus 1 space for the manager and each employee.

(4) One-family dwellings and 2-family dwellings: 2 parking spaces shall be provided for each dwelling unit.  
(Ord. 2001-10)

(5) Tourist courts, tourist homes and motels: 1 parking space shall be provided for each dwelling unit or lodging room, plus 1 space for the manager and each employee.

(6) Transient hotels: 1 parking space shall be provided for each dwelling unit and 1 parking space for each 2 lodging rooms, plus 1 space for the manager and each employee.

### (B) Retail and service uses.

(1) Automobile laundry/car wash: 20 stacking spaces shall be provided for each wash rack, plus 1 parking space for each employee.

(2) Automobile service stations: 1 parking space shall be provided for each 2 employees, plus such additional spaces required hereinafter for affiliated retail uses such as convenience store items, plus 1 parking space for each employee.

(3) Bowling alleys: 3 parking spaces shall be provided for each alley, plus such additional spaces required hereinafter for affiliated retail and recreational uses such as bars, restaurants, pool halls and the like, plus 1 parking space for each employee.

(4) Drive-in establishments: 6 stacking spaces shall be provided for each customer service window, plus 1 parking space for each employee.

(5) Food and/or beverage establishments (dispensed for consumption on the premises): 1 parking space shall be provided for each 300 square feet of floor area, excluding food preparation, mechanical and storage, plus 1 parking space for each employee.

(6) Furniture and furniture repair, and household appliance stores: 1 parking space shall be provided for each 600 square feet of floor area, plus 1 parking space for each employee.

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(7) Motor vehicle sales and machinery sales: 1 parking space shall be provided for each 300 square feet of floor area, plus 1 parking space for each employee.

(8) Private clubs and lodges: 1 parking space shall be provided for each 200 square feet of floor area, plus 1 parking space for each employee.

(9) Retail stores and banks: 1 parking space shall be provided for each 200 square feet of floor area. Banking drive-in facilities shall provide 1 service space and 3 stacking spaces per customer service window, plus 1 parking space for each employee.

(10) Theaters (indoor): 1 parking space shall be provided for each 3 seats, plus 1 parking space for each employee.

(11) Undertaking establishments and funeral parlors: 15 parking spaces shall be provided for each chapel or parlor, 1 parking space for each funeral vehicle kept on the premises, plus 1 parking space for each employee. In addition, not less than 10 automobile stacking spaces shall be provided for funeral procession assembly.

(C) Offices - business, professional and governmental: 1 parking space shall be provided for each 400 square feet of floor area, plus 1 parking space for each employee.

(D) Wholesale establishments (but not including warehouses and storage buildings other than accessory): 1 parking space shall be provided for each 600 square feet of floor area, plus 1 parking space for each employee.

(E) Establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, good or products: 1 parking space shall be provided for each 2 employees, plus 1 parking space for each vehicle used in the conduct of the enterprise.

(F) Warehouses and storage buildings: 1 parking space shall be provided for each 2 employees, plus 1 parking space for each vehicle used in the conduct of the enterprise.

(G) Community service uses:

(1) Church, school, college and other institutional auditoriums: 1 parking space shall be provided for each 3 auditorium seats. Adequate space shall also be provided for off-street parking of buses used in connection with events held at the auditoriums, and all loading and unloading of passengers shall take place upon the premises.

(2) Colleges, universities and business, professional and trade schools: 1 parking space shall be provided for each 2 employees and 1 parking space shall be provided for each 3 students based on the maximum number of students attending classes on the premises at any one time during any 24-hour period.

(3) Health centers, government operated: 3 parking spaces shall be provided for each staff doctor and visiting doctor, plus 1 parking space for each 2 employees.

(4) Hospitals: 1 parking space shall be provided for each 2 hospital beds, plus 1 parking space for each 2 employees, other than staff doctors, plus 1 parking space for each staff doctor, plus 1 parking space for each vehicle used in the conduct of the enterprise.

(5) Libraries, art galleries and museums: 1 parking space shall be provided for each

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1,000 square feet of floor area.

(6) Municipal or privately-owned recreation or community center: 1 parking space shall be provided for each 2 employees, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public.

(7) Public utility and public service uses: 1-1/2 parking spaces shall be provided for each employee, plus 1 parking space for each vehicle used in the conduct of the enterprise.

(8) Schools, nursery and elementary: 1 parking space shall be provided for each employee, plus 1 space for each 3 pupils, except as otherwise provided.

(9) High schools: 1 parking space for each employee, plus 1 space for each 2 pupils, except as otherwise provided.

(H) Places of assembly: Stadiums, arenas, convention halls, auditoriums (other than church, college or institutional schools) and other similar places of assembly: Parking spaces equal in number of 50% of the capacity in persons shall be provided.

(I) Miscellaneous uses:

(1) Fraternities, sororities and dormitories: 1 parking space shall be provided for each 5 active members and/or residents, plus one parking space for the manager thereof.

(2) Institutions for the care of the mentally impaired and developmentally disabled: 1 parking space shall be provided for each 2 employees (other than staff doctors), plus 1 parking space for each staff doctor, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public, plus 1 parking space for each vehicle used in the conduct of the enterprise.

(3) Rest homes or nursing homes: 1 parking space shall be provided for each 4 beds, plus 1 parking space for each 2 employees (other than staff doctors), plus 1 parking space for each staff doctor, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public, plus 1 parking space for each vehicle used in the conduct of the enterprise.

(4) Sanitariums, convalescent homes or institutions for the care of children and the aged: 1 parking space shall be provided for each 4 beds, plus 1 parking space for each 2 employees (other than staff doctors), plus 1 parking space for each staff doctor, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public, plus 1 parking space for each vehicle used in the conduct of the enterprise.

(5) For the following uses, parking spaces adequate in number, as determined by the Plan Commission, to serve persons employed or residing on the premises as well as the visiting public.

- (a) Airports and heliports;
- (b) Convents and monasteries;
- (c) Crematories and mausoleums;

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- (d) Fraternal and religious institutions;
- (e) Outdoor amusement establishment, fairgrounds, permanent carnivals, kiddie parks and other similar amusement centers;
- (f) Penal and correctional institutions;
- (g) Rectories and parish houses; and
- (h) Swimming pools.

(J) Mixed uses: When 2 or more uses are located on the same zoning lot within the same building, parking spaces equal in number to the sum of the separate requirements of the use shall be provided. No parking space or portion thereof shall serve as the required space for more than 1 use unless otherwise authorized by the Board of Zoning Appeals.

(K) Other uses and standards: For uses not listed heretofore in this schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar use, or as determined by the Plan Commission to meet the following parking requirements for parking lot design and buffering:

(1) Parking areas shall be planned to transition from the streetscape to the structure and to provide for adequate planting and safe pedestrian movement the following standards supplement those requirements and not supplant any of the stricter requirements in HMC §[154.355](#) through §[154.361](#).

(2) One (1) space per one thousand square feet (1,000) of gross floor area or one space for each two employees on the premises during the largest shift, whichever is greater. (Prior Code, § 24-180) (Ord. 94-61; Ord. 97-15; Ord. 2001-41; Ord. 2018-04, § 3)

### § 154.360 ADDITIONAL LOADING REGULATIONS.

Off-street loading facilities shall be subject to the following additional loading regulations.

(A) *Location.* All required loading berths shall be located on the same lot as the use served. No permitted or required loading berth shall be located within twenty-five feet (25') of the nearest point of intersection of any two (2) streets. Loading berths shall be prohibited within two hundred feet (200') of a residential use. (Ord. 2018-07)

(B) *Screening.* Loading berths shall be recessed into the mass of the building or creatively blended into the landscape using building offsets, screen walls, berms, and other design techniques. And delivery doors shall be screened so as not to be visible from, or cast light into, any adjacent residential area while vehicles are parked or moving. Landscaping can be used to supplement the screening.

(C) *Size.* Unless otherwise specified in HMC § [154.361](#), a required loading berth shall be designed with a minimum twelve feet (12') by sixty feet (60') of clear area dedicated for ingress-egress to the loading berth, exclusive of aisles and maneuvering space, but shall provide for a minimum total depth of one hundred and thirty feet (130') of clear area pavement (no parking

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included) with a vertical clearance of at least fourteen feet (14').

(D) *Access.* Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.

(E) *Surfacing.* All open off-street loading berths shall be improved with a compacted macadam base, not less than 7 inches thick, surfaced with not less than 2 inches of asphaltic concrete or some compatible all-weather, dustless material and be designed with a minimum sixty foot (60') concrete apron area immediately adjacent to the structure.

(F) *Repair and service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residence, Office, or Business District.

(G) *Space not to be used to satisfy parking facility requirements.* No space allocated for any off-street loading berth shall, while so allocated, be used to satisfy the space requirement for any off-street parking facility, or portion thereof.

(H) *Special uses.* For special uses other than prescribed for hereinafter, loading berths adequate in number and size to serve such uses, as determined by the Plan Commission, shall be provided.

(I) *Receiving facilities.* Uses for which off-street loading facilities are required herein but are located in buildings of less floor area than the minimum prescribed for such required facilities shall be provided with adequate receiving facilities, accessible by motor vehicle, off any adjacent alley, service drive or open space on the same lot.

(Prior Code, § 24-181) (Ord. 94-61; Ord. 97-15; Ord. 2001-41; Ord. 2018-04, § 4)

**§ 154.361 SCHEDULE OF LOADING REQUIREMENTS.**

For the uses listed in the following table, off-street loading berths shall be provided on the basis of gross floor area of buildings or portions thereof devoted to such uses, in the amounts shown herein.

<i>Required Use</i>	<i>Number and Gross Floor Area in Square Feet</i>	<i>Horizontal Dimension of Berths</i>
1. Hospitals, sanitariums and other institutional uses	10,000 to 200,000	1 - (10 ft. x 25 ft.)
	For each additional 200,000 or fraction thereof	1 additional (10 ft. x 25 ft.)
2. Hotels, clubs and lodges, except as set forth in item 3 below	10,000 to 20,000	1 - (10 ft. x 25 ft.)
3. Hotels, clubs and lodges, when containing any of the following: retail shops, convention halls, auditoriums, exhibition halls, or business or professional offices (other than accessory)	10,000 to 20,000	1 - (10 ft. x 25 ft.)
	20,000 to 150,000	1 - (10 ft. x 50 ft.)
	For each additional 150,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
4. Retail stores	5,000 to 10,000	1 - (10 ft. x 25 ft.)
5. Establishments dispensing food or beverages for consumption on the	10,000 to 25,000	2 - (10 ft. x 25 ft. ea.)

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premises		
6. Motor vehicle and machinery sales	10,000 to 25,000	1 - (10 ft. x 25 ft. ea.)
	25,000 to 40,000	1 additional (10 ft. x 50 ft.)
7. Wholesale establishments (but not including warehouse and storage buildings other than accessory)	10,000 to 200,000	1 - (10 ft. x 50 ft.)
	For each additional 200,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
8. Auditoriums, convention halls, exhibition halls, sports arenas, stadiums	10,000 to 20,000	1 - (10 ft. x 25 ft.)
	10,000 to 150,000	1 - (10 ft. x 50 ft.)
9. Bowling alleys	20,000 to 100,000	1 - (10 ft. x 25 ft.)
	For each additional 100,000 or fraction thereof	1 additional (10 ft. x 25 ft.)
10. Banks and offices	10,000 to 100,000	1 - (10 ft. x 25 ft.)
	For each additional 100,000 or fraction thereof	1 additional (10 ft. x 25 ft.)
	For each additional 500,000 or fraction thereof	1 additional (10 ft. x 25 ft.)
11. Establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, goods or products	5,000 to 10,000	1 - (10 ft. x 25 ft.)
	10,000 to 40,000	1 - (10 ft. x 50 ft.)
	40,000 to 100,000	2 - (10 ft. x 50 ft. ea.)
12. Warehouses and storage buildings	For each additional 100,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
13. Theaters	8,000 to 25,000	1 - (10 ft. x 25 ft.)
	For each additional 50,000 or fraction thereof	1 additional (10 ft. x 25 ft.)

(Prior Code, § 24-182) (Ord. 94-61; Ord. 97-15; Ord. 2001-41)

***SIGNS***

**§ 154.375 PURPOSE.**

The purpose of this subchapter is to regulate, classify, restrict and control the location, size, type, placement and maintenance of all signs within the City of Hobart for the purpose of preserving the health, safety and general welfare of the city and its citizens; and, to insure that signs are compatible with their surroundings and land uses, and that they are legible and properly maintained.

(Prior Code, § 24-183) (Ord. 97-15; Ord. 2001-41)

**§ 154.376 PERMITTED SIGNS; AGRICULTURAL DISTRICTS.**

In all agricultural districts the following classes of signs are permitted, in accordance with the regulations set forth herein and provided that no sign shall project higher than 1 story or 15 feet above curb level, whichever is lower.



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(A) One nameplate; excluding flashing and illuminated signs, not exceeding 2 square feet in area.

(B) One advertising sign; excluding flashing and portable signs, offering the sale of agricultural products grown or produced on the property, not to exceed 32 square feet in area, either single faced or double faced, and to be no closer than 10 feet to the right-of-way line of the adjacent street; provided, however, that, no such sign shall obstruct the view or sight distance of any driveway, street or highway or any other point of ingress or egress.

(C) One for sale sign; excluding flashing or portable signs, advertising the sale or rental of the property on which the sign is located, not to exceed 32 square feet in area. (Prior Code, § 24-184) (Ord. 97-15; Ord. 2001-41)

### **§ 154.377 PERMITTED SIGNS; RESIDENCE DISTRICTS.**

In all residence districts, the following classes of signs are permitted, in accordance with the regulations set forth herein and provided that no sign shall project higher than 1 story or 15 feet above curb level, whichever is lower.

(A) For 1 and 2 dwellings, 1 nameplate; excluding flashing and illuminated signs, not exceeding 2 square feet in area, and bearing only the name of the occupant and/or the street number.

(B) For multiple-family dwellings, for apartment hotels and buildings other than dwellings, 1 identification sign; excluding flashing and portable signs, not exceeding 12 square feet in area.

(C) For apartment and condominium complexes, 1 identification sign for each building; excluding flashing and portable signs, bearing the name of the building and/or the name of the management firm, not exceeding 4 square feet in area and 1 identification sign for the entire complex; identifying the complex, excluding flashing and portable signs, not exceeding 24 square feet in area.

(D) For home occupations (where permitted), 1 identification sign; excluding flashing and portable signs, not exceeding 2 square feet in area.

(E) For public or private educational institutions, churches, libraries, hospitals, other public or quasi-public buildings, parks, playgrounds and off-street parking areas, identification signs; excluding flashing and portable signs, bearing the name and/or such other information pertaining to the premises as is reasonably necessary for the convenience of the general public, not exceeding 45 square feet of total sign area for all signs on the premises. (Prior Code, § 24-185) (Ord. 97-15; Ord. 2001-41)

### **§ 154.378 PERMITTED SIGNS; OFFICE SERVICE DISTRICTS.**

In all office service districts the following classes of signs are permitted, in accordance with the regulations set forth herein:

(A) All signs and nameplates permitted in the residence districts; and

(B) Business signs; excluding flashing and portable signs, directing attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where the sign is located or to which it is affixed, not exceeding 45 square feet of total sign area for all signs on the premises.

(Prior Code, § 24-186) (Ord. 97-15; Ord. 2001-41)

**§ 154.379 PERMITTED SIGNS; BUSINESS DISTRICTS.**

In all business districts the following classes of signs are permitted, in accordance with the regulations set forth herein:

(A) All signs and nameplates permitted in the residence districts;

(B) Business signs; excluding flashing and portable signs, directing attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where the sign is located or to which it is affixed, not exceeding 45 square feet of total sign area for all signs on the premises;

(C) Signs on marquees and canopies; when pre-existing on the date of the adoption of this chapter, signs on marquees and canopies may extend into the public right-of-way no more than 15 feet but in no case beyond a point which is within 2 feet of the vertical extension of the curb line or paved portion of the street where no curb exists. Any sign on a marquee or canopy shall have a minimum vertical clearance of at least 14 feet above street level, further such sign on a marquee or canopy shall be affixed flat to the surface thereof and no such sign shall extend vertically or horizontally beyond the limits of the marquee or canopy; except, that individual free standing letters may project to a height not exceeding 24 inches above same. However, from the date of the adoption of this chapter forward, no signs on marquees or canopies shall extend into the public right-of-way;

(D) Free standing signs; business signs, including monument signs and signs which are erected upon poles, pylons, standards or separate supports shall be placed so as to be entirely within the property lines of the premises upon which the sign is located.

(1) Landscaping requirement. All freestanding and monument signs must have at least 1 square foot of landscaping treatment surrounding the base for every 2 square foot of sign face.

(2) Landscaping must project at least 2 feet in height, and must not obscure the sign face.

(3) Landscaping encircling the sign base must be consistent with the site plan's landscaping plan.

(4) In addition, a minimum of 30% of the sign base planting area must contain native species.

(E) Signs on masonry pylons; signs may be placed on the face of a masonry pylon when the pylon is constructed as an integral part of the building and such pylon does not project above the roof line more than 5 feet; and

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(F) In all business districts, permitted signs are subject to the following.

(1) *Area.* The gross area in square feet of all signs on a zoning lot shall not exceed the lineal footage of frontage of the lot, except on lots with frontages of 50 feet or less between buildings, where the gross area in square feet of all signs on the lots shall not exceed 50 square feet of frontage of the lot. (Example: a lot with a frontage of 100 feet may have a total gross area of all signs added together of no more than 1 x 100, or 100 square feet).

(2) *Location.* Signs shall front on the principal street, an off-street parking area or in the case of a corner lot, on that portion of the side street within 50 feet of the principal street.

(3) *Projection.* Signs which pre-existed the date of the adoption of this chapter which are suspended from any building shall not project more than 8 feet beyond the property line into the public right-of-way or within 2 feet of the vertical extension of the curb line or paved portion of the street where no curb exists, whichever is less. The bottom of the sign shall not be less than 14 feet above the street level. Any such sign suspended from a building shall not exceed 12 feet in height and its location shall be subject to approval by the administrative official. However, from the date of this chapter forward, no signs may extend into the public right-of-way.

(4) *Height.* No sign shall project higher than 35 feet above the curb level or where no curb exists, above the average level of the ground on which the sign exists, and no sign mounted on an exposed pole, pylon, standard or separate support shall have a total height greater than 6 feet above the curb level or where no curb exists, above the average level of the ground on which the sign exists, and in no case shall a sign project more than 12 feet above the roof line or above the parapet line should one exist.

(Prior Code, § 24-187) (Ord. 97-15; Ord. 2001-41; Ord. 2007-15, § 1)

### § 154.380 PERMITTED SIGNS; MANUFACTURING DISTRICTS.

In all manufacturing districts the following classes of signs are permitted, in accordance with the regulations set forth herein:

(A) All signs and nameplates permitted in the business districts;

(B) Advertising signs: including billboards and poster panels, directing attention to a business or commodity, service or entertainment conducted, sold or offered elsewhere than the premises where such sign is located or to which it is affixed. For any such sign, the surface area shall not exceed 100 square feet; and

(C) In all manufacturing districts, permitted signs are subject to the following:

(1) *Area.* The gross area in square feet of all signs on a zoning lot shall not exceed 2 times the lineal feet of frontage of the lot, except on lots with frontages of 50 feet or less between buildings, where the gross area in square feet of all signs on the lots shall not exceed 100 square feet of frontage of the lot. (Example: a lot with a frontage of 100 feet may have a total gross area of all signs added together of no more than 2 x 100, or 200 square feet.)

(2) *Location.* Signs shall front on the principal street, an off-street parking area or in the case of a corner lot, on that portion of the side street within 50 feet of the principal street. However, no advertising sign erected after passage of this chapter shall be located within 300 feet

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of any public park of more the 5 acres in area, nor shall such sign be located within 10 feet of the right-of-way of any freeway, expressway or toll road designated as such in the record of the city. Further, no advertising sign shall be located within 75 feet of a residence district, nor shall such sign be located within 300 feet of any part of any other sign, whether such sign is an off-premise or on-premise sign.

(3) *Projection.* No sign shall project into the public right-of-way.

(4) *Height.* No sign shall project higher than 50 feet above the curb level or where no curb exists, above the average level of the ground on which the sign exists. (Prior Code, § 24-188) (Ord. 97-15; Ord. 2001-41; Ord. 2007-15, § 1)

### § 154.381 TEMPORARY SIGNS.

In all zoning districts, the following temporary signs are permitted, in accordance with the regulations set forth herein. Further, temporary signs shall not be placed upon public property, public easements, public utility poles, traffic poles or standards or other public structures or buildings.

(A) For sale and for rent or lease signs; 1 non-illuminated sign pertaining to the sale, rent or lease of the premises upon which it is placed, not exceeding 6 square feet in area, provided that, the sign shall be removed within 7 days of the consummation of the sale, rent or lease or of the termination of the sale, rent or lease agents authority.

(B) Open house signs; not to exceed 3 non-illuminated signs and 6 square feet in area each, may be placed during daylight hours on the day of a real estate broker sponsored open house, to inform and direct the public to the location of the open house.

(C) Contractors signs; 1 non-illuminated and non-portable sign, not exceeding 16 square feet in area, bearing the street number of a new or remodeled structure and/or the names of the general contractor, subcontractor, owner or tenant may be placed on the premises during the construction work. The sign shall be removed within 7 days of substantial completion of the work.

(D) Special event signs; excluding flashing signs, announcing and/or promoting any educational, charitable, philanthropic, civic or religious campaign drive, or event, may be placed on the premises where the event is to take place, not exceeding 32 square feet in area. The signs may be located for a period not to exceed 30 days preceding the event and shall be removed within 5 days after the event.

(E) Special event banners; all weather banners, announcing and/or promoting any educational, charitable, philanthropic, civic or religious campaign drive, movement or event, may be hung upon approval of the Board of Public Works and Safety. The signs may be located for a period not to exceed 30 days preceding the event and shall be removed within 5 days after the event.

(F) Political signs; non-illuminated political campaign signs, not to exceed 32 square feet in area, intended to be viewed from the public sidewalk or streets, in support of a candidate or candidates for office or urging action on any other matter on the ballot of a primary, general or

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special election, may be placed on private property in any zoning district. The signs may be located for a period not to exceed 30 days preceding each election for which the sign was installed. The owner of the property upon which the signs are displayed is liable for the removal of the signs within 5 days after the election of which it refers.

(G) Public expression signs: signs expressing a political, social or religious position are permitted subject to the following.

(1) The content of the sign shall not contain profanity, indecency or gross displays.

(2) The size of the sign shall not exceed 32 square feet in area, and shall not be located any closer than 10 feet from any property line.

(3) The anchoring and structure of the sign shall be adequate to prevent the sign from becoming a projectile during high winds.

(4) The face of the sign shall be properly maintained to avoid cracking, peeling or fading to the point of being a blighting influence.

(5) The signs shall not contain neon, flashing lights or be portable in nature. If illuminated, the power supply and transmission must satisfy city electrical code to avoid danger to the public.

(H) Business special event signs: a sign facing each platted frontage announcing grand opening, or other special events to be permitted for a maximum duration of 45 days per calendar year, with no single event exceeding 30 days. Multiple sign postings must be a minimum of 30 days apart. Maximum sign is 45 square feet per sign.  
(Prior Code, § 24-189) (Ord. 97-15; Ord. 2001-41; Ord. 2004-14, § 1; Ord. 2016-05)

### **§ 154.382 PROHIBITED SIGNS - ALL DISTRICTS.**

In all districts, the following signs are prohibited:

(A) Advertising signs, including billboards and poster panels, directing attention to a business or commodity, service or entertainment conducted, sold or offered elsewhere than the premises where such sign is located or to which it is affixed, except as expressly permitted in manufacturing districts;

(B) Signs that have blinking, flashing, or fluttering lights, lasers and visual projections or lights resembling emergency or road equipment vehicles;

(C) Signs bearing the words: Slow, Stop, Caution, Danger, Warning or similar words not associated with emergency or alert situation;

(D) Signs that have changing light intensity, brightness or color, or give such illusion;

(E) Signs that emit audible sound, odor, or visible matter;

(F) Signs which display motion pictures, unless, in manufacturing, business or office service zoning districts, separate still images are serially displayed electronically upon a sign and

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are changed not less than every ten (10) seconds. All electronic signs are prohibited in residential zoning districts;

(G) Inflatable displays used in connection with advertising purposes: excluding inflatable displays used in connection with nationally recognized holiday seasons, not containing advertising purposes;

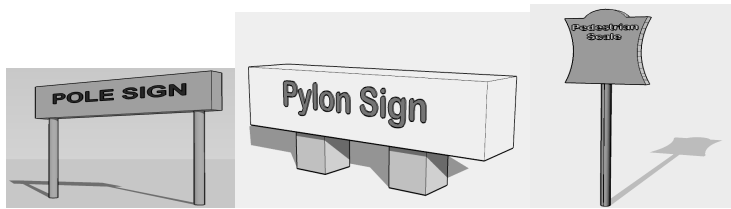
(H) Signs with obscene content;

(I) Signs mounted on exposed poles, pylons, standards or separate supports, except as expressly permitted in business and manufacturing districts; and

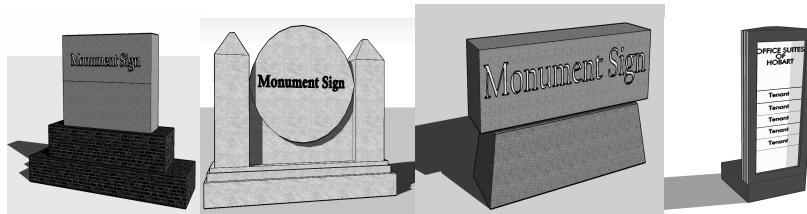
(J) Portable signs, except as expressly permitted in temporary signs.  
(Ord. 2007-15, § 1; Ord. 2013-45)

**§ 154.383 ILLUSTRATION OF BUSINESS SIGNS - ALL DISTRICTS.**

(A) Signs with exposed poles, pylons, standards or separate supports which have a total height no greater than 6 feet.



(B) Free standing monument signs which have a total height no greater than 35 feet.



(C) Free standing signs erected on unexposed poles, pylons, and separate supports which have a total height no greater than 35 feet.



(Ord. 2007-15, § 1)

***WIRELESS COMMUNICATION FACILITIES AND SERVICES***

**§ 154.395 PURPOSE.**

The purpose of these regulations is to provide for the safest and most efficient integration of cellular antenna towers for cellular telecommunication services or personal communication services within the community, to provide for the facilities in coordination with the recommendations of the comprehensive plan, and to allow for the facilities with the intention of furthering the public health, safety and general welfare.

(Ord. 2001-42)

**§ 154.396 PRE-APPLICATION CONFERENCE.**

Applicants are required to notify the Planning Commission's duly authorized representative to discuss proposals, allow for early coordination, and to identify those items which are in conformance or non-conformance with the comprehensive plan, local zoning ordinance and the provisions of these regulations.

(Ord. 2001-42)

**§ 154.397 DEFINITIONS.**

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

***CELLULAR ANTENNA TOWER.*** A tower constructed for, or an existing facility that has been adapted for the location of transmission or equipment to be used in the provision of cellular telecommunication services or personal communication services.

***CELLULAR TELECOMMUNICATION SERVICES.*** A retail telecommunication service that uses radio signals transmitted through cell sites and mobile switching stations.

***CO-LOCATION.*** Locating 2 or more sets of antennas or related equipment on the same cellular antenna tower.

***MULTIPLE USE FACILITY.*** Cellular communication facilities that are shared with other existing or newly constructed uses, including, but not limited to, ball field lights, freeway signs or light standards, flagpoles, church steeples, bell towers and the like.

***PERSONAL COMMUNICATION SERVICE.*** As defined in 47 U.S.C. § 332(c).

***TELECOMMUNICATION UTILITY OR SERVICE PROVIDER.*** Any entity except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with the transmission or conveyance over wire, in air or otherwise, of any message by

telephone or telegraph for the public, for compensation.  
(Ord. 2001-42)

**§ 154.398 GENERALLY PERMITTED.**

All new cellular antenna towers for cellular telecommunication services or personal communication services are permitted in an M-1 or M-2 manufacturing zone or B-3 highway oriented business zone, after a Planning Commission review in accordance with the following procedures to ascertain agreement with the comprehensive plan and the applicable regulations contained within the zoning ordinance, and after being granted a site plan approval by the Plan Commission. All multiple-use facilities are permitted in the zoning districts where the shared use is permitted.  
(Ord. 2001-42)

**§ 154.399 APPLICABILITY.**

All other telecommunication utilities, telecommunication service providers and/or companies that are engaged in the business of providing the required infrastructure to the same, that proposes to construct an antenna tower or antenna for cellular telecommunication services or personal communication services not constituting a “micro wireless facility” or “small cell facility” as those terms are defined in I.C. 8-1-32.3-7.5 and I.C. 8-1-32.3-9, respectively, shall submit a copy of the completed application in accordance with the following regulations. Those persons or organizations proposing to install micro wireless facilities or small cell facilities as defined above shall give written notice to the City Engineer and Board of Public Works and Safety through the application and permit process specified in [§§154.406 through 154.411](#) below.  
(Ord. 2001-42; Ord. 2017-06, § 1)

**§ 154.400 APPLICATION REQUIREMENTS.**

(A) Applications for the construction of cellular antenna towers for cellular telecommunication services or personal communication services must be signed by the owner of the cellular antenna tower and in any case where the cellular antenna tower shall be located on land or a structure which will be leased, the application must also be signed by the owner of the land or structure.

(B) The application shall include the following:

(1) A copy of the applicant’s FCC license or, if the applicant is not an FCC license holder, a copy of at least 1 letter of commitment from an FCC license holder to locate at least 1 antenna on the applicant’s tower;

(2) Radio frequency requirements, as follows:

(a) General coverage area, including overlap (“hand-off”) area with other sites;  
and

(b) Specific (targeted) coverage area(s) and required field strength(s).



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- (3) System specifications of the proposed site, including:
- (a) Number of antennas and sectors;
  - (b) Model and manufacturer of antennas;
  - (c) Antenna specifications, including horizontal and vertical beam width, gain, down tilt (electrical and mechanical), and horizontal and vertical radiation patterns;
  - (d) Orientation (azimuth) of antennas sectors, in degrees, including reference to true north;
  - (e) Effective radiated power (ERP) of each antenna;
  - (f) Transmission line size and number;
  - (g) Geographical coordinates for tower location;
  - (h) Height of the antenna center of radiation, above ground level and above mean sea level;
  - (i) Frequency or frequency band(s) of operation used by the provider analysis;
  - (j) Search “ring” area used by the provider to locate to the site; and
  - (k) Number of potential co-locators.

(4) In the, event divisions (B)(3)(a) through (d) above require modification or amendment either during or after the application is approved, the city’s Engineer shall review the request to change specification and determine if the change is material to the intent of these regulations. If the Engineer finds that the change is material, he or she shall require the applicant to follow the same procedure as a new application. If the Engineer determines that the change is not material, he or she shall update the file and approve the change administratively. A correction adjustment to down tilt and orientation shall not require a review by the Engineer.

(5) Unless co-locating or using a multiple use facility, certification, supported by evidence, that co-location of the proposed facility with an existing approved tower or facility cannot be accommodated. The applicant’s certification shall include a listing of all existing towers and facilities within a 1-mile radius of the proposed tower location, a description of each existing site and a discussion of the ability or inability to co-locate on each existing site, according to the following:

- (a) No existing towers or facilities are located within a 1-mile radius of the proposed tower location;
- (b) Existing towers or facilities are not of sufficient height to meet the applicant’s engineering requirements;
- (c) Existing towers or facilities do not have sufficient structural strength to support the applicant’s proposed antenna(s) or related equipment;

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(d) The applicant's planned equipment would cause frequency interference with other existing or planned equipment of the tower or facility, or the existing or planned equipment of the tower or facility would cause frequency interference with the applicant's planned equipment, and which cannot be reasonably prevented;

(e) Unwillingness of the owner of the existing tower/towers or facility to entertain a co-location proposal on commercially reasonable terms; and

(f) Existing towers are not located within a reasonable distance to provide the necessary coverage.

(6) Unless co-locating or using a multiple use facility, certification, supported by evidence, that the proposed site is appropriate for the location of the facility. The applicant's certification shall include a listing of at least 3 potential, commercially viable sites within the search ring of the proposed tower location, a description of each potential site and a discussion of the ability of the site to host such a facility, according to the following:

(a) Unwillingness of the site owner(s) to permit such a facility;

(b) Topographic limitations of the site;

(c) Adjacent impediments that would obstruct adequate transmission;

(d) Physical site constraints that would preclude the construction of such a facility; and

(e) Unfeasibility from a technical standpoint.

(7) A statement demonstrating that the proposal is in agreement with the adopted comprehensive plan and is in conformity with these regulations;

(8) Unless co-locating or using a multiple use facility, a development plan of the entire lot of record upon which the cell tower is proposed to be located, drawn to a scale not smaller than 1 inch equals 100 feet, showing the following information, where applicable:

(a) The total acreage of the lot upon which the proposed tower will be located;

(b) All current or proposed public and private rights-of-way and easements located on or adjacent to the subject property;

(c) Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed 2 feet of the entire lot of record upon which the cell tower is proposed to be located;

(d) Location, height, arrangement, and identification of all buildings, structures and uses within a distance equal to twice the height of the cell tower;

(e) Location and identification of all residential buildings, structures and uses, and residentially zoned property within 500 feet of where the cell tower is proposed to be located;

(f) Landscaping features, including identification of planting areas and the

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location, type and height of walls and fences of that portion of the parcel developed for cellular tower purposes;

(g) Location of signs, indicating their orientation, size and height of that portion of the parcel developed for cellular tower purposes;

(h) All utility lines and easements of that portion of the parcel developed for cellular tower purposes;

(i) Location of all off-street parking, loading and/or unloading and driveway areas, including typical cross sections, the type of surfacing, dimensions and the number and arrangement of off-street parking and loading and/or unloading spaces of that portion of or leading to the parcel developed for cellular tower purposes, if deemed necessary by the city's Engineer;

(j) Pedestrian walkways, including alignment, grades, type of surfacing, and width of that portion of or leading to the parcel developed for cellular tower purposes, if deemed necessary by the city's Engineer;

(k) Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details and typical cross sections of that portion of or leading to the parcel developed for cellular tower purposes, if deemed necessary by the city's Engineer; and

(l) Provisions for control of stormwater detention/retention, erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction, if deemed necessary by the city's Engineer. If the portion of or leading to the parcel developed for cellular tower purposes is less than 1 acre, then this provision is unnecessary.

(9) If co-locating or using a multiple use facility, a copy of all co-location or multiple use facility agreements. Proprietary financial information may be redacted from these agreements, however, all other information, including as a minimum, identifying parties to the agreement, and indicating maintenance responsibilities shall not be redacted.  
(Ord. 2001-42)

### **§ 154.401 PROCESSING OF APPLICATION.**

Applications for the construction of cellular antenna towers for cellular telecommunication service or personal communication services shall be processed as follows.

(A) *New sites.*

(1) If that portion of the property upon which or leading to the parcel developed for a cellular tower purposes does not permit that particular land use, the applicant may file to obtain a rezoning of the entire lot of record to a zone which does permit this use by right; or a use variance for that portion of the lot of record used for or leading to the parcel developed for cellular tower purposes; all in accordance with the provision found herein.

(2) If that portion of the property upon which or leading to the parcel developed for cellular tower purposes does permit that particular land use, the applicant must then obtain a site

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plan approval in accordance with the provision found herein.

(3) The application shall meet all design standards requirements listed herein.

(B) *Previously approved sites or multiple use facilities.*

(1) For facilities located on previously approved sites or multiple use facilities, the city's Engineer shall review the application for its conformity with the building permit regulations, and the applicable regulations contained within this chapter.

(2) If the city's Engineer determines that the application is in conformity with these regulations then a building permit will be issued.

(3) If the city's Engineer determines that the application is not in conformity with these regulations, the applicant may file an application for a developmental standards variance with the City of Hobart Board of Zoning Appeals.

(4) The application shall meet all design standards requirements listed herein, [§154.402\(B\)](#)(1), (4), (9), (10), (11), (13), (14) and (15).  
(Ord. 2001-42)

### **§ 154.402 DESIGN STANDARDS.**

(A) At the time the application is submitted, the applicant shall provide information demonstrating compliance with the following requirements. Where the Planning Commission, or its duly authorized representative, finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety and general welfare, and that special conditions or circumstances make 1 or more requirements unreasonable, the Planning Commission must hold a public hearing regarding the proposed modification or waiver of the requirement. The Plan Commission shall give notice of the public hearing by publication under I.C. 5-3-1.

(B) In accordance with its rules, the Plan Commission shall also provide for due notice to interested parties at least 10 days prior to the date set for public hearing. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.

(1) All facilities shall be approved pursuant to the site plan review process required by the Hobart Zoning Code.

(2) All permit fees are due and payable at the time specified by the Hobart Municipal Code and prior to commencing any work.

(3) All equipment shall be enclosed within appropriately secured equipment shelters or cabinets with appropriate locks.

(4) All new cellular antenna towers shall be located a minimum distance equal to:

(a) One-half the height of the tower, from any property line of adjacent property

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zoned other than M-1, M-2 or B-3;

(b) One-half the height of the tower from the front and side property line and 20 feet from the rear property line, on adjacent property zoned M-1, M-2 or B-3; and

(c) Five hundred feet from residentially zoned or used property.

(5) A cellular antenna tower, or multiple use facility, may be constructed to a maximum height of 180 feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than 15 feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point.

(6) When any cellular antenna tower, or alternative antenna tower structure is proposed, the applicant shall furnish the Planning Commission with a certification from an engineer registered in the State of Indiana that the tower will meet the current applicable state structural standards for steel antenna towers.

(7) Cellular antenna towers shall not be illuminated, except in accord with state or federal regulations.

(8) Except in the case of multiple use facilities, the site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification or repairs. To accommodate the visits, ingress/egress shall only be from approved access points.

(9) Fences shall be provided in accordance with the required site plan approval.

(10) Screening shall be provided in accordance with the required site plan approval.

(11) Surfacing of all driveways and off-street parking areas shall comply with the requirements of the zoning ordinance.

(12) There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions or signs, which are required by a federal, state or local agency. The signs shall not exceed 5 square feet in area.

(13) All new cellular antenna towers shall be designed and built so as to be capable of use by three or more wireless communications providers including providers such as cellular or PCS providers using antenna arrays of 9 to 12 antennas each within 15 vertical feet of each other with no more than 3 degrees of twist and sway at the top elevation and the owner of the telecommunication tower must certify to the city that the antenna is available for use by another wireless telecommunication provider on a reasonable and non-discriminatory basis and at a cost not exceeding the market value for the use of the facilities. If a portion of the telecommunication tower is to be leased to other wireless communication providers, the portions of the actual and proposed lease that demonstrate compliance with the requirements of this division shall be submitted with the application for site plan approval.

(14) All telecommunication towers shall be of a tapering monopole construction, except that another type of telecommunication tower structure may be allowed upon showing that the alternate type of telecommunication tower structure would cause less visual impact on surrounding property than a similar monopole structure.

## Hobart - Land Usage

(15) No lettering, symbols, images, trademarks, signs or advertising shall be placed on or affixed to any part of a telecommunication tower, antenna array or antenna, other than as required by FCC regulations regarding telecommunication tower registration or other applicable law.

(16) Telecommunication towers and/or antennas, which have not been used for a period of 1 year or more, shall be removed, at the expense of the owner, within 90 calendar days of the serving of a certified notice to do so. If the owner fails to remove the tower or antenna within the time prescribed, the city shall then have the right to remove the tower and/or antenna and recover the cost of removal by initiating a collection suit with attorney fees and costs paid by the owner. No later than 30 days from the last date of use for telecommunication services, the most recent telecommunication service provider to use the tower and/or antenna shall notify the city's Engineer that use has been discontinued.

(17) No option or site lease agreements shall prohibit the possibility of co-location.  
(Ord. 2001-42)

### **§ 154.403 FEES.**

An application fee as set out in the Fee Schedule of this code shall be paid to reimburse the city the costs of the technical review required by this subchapter. In addition, all applicable building permit fees shall be paid.

(Ord. 2001-42)

### **§ 154.404 AMENDMENTS.**

Any amendments to plans, except for minor adjustments as determined by the Planning Commission, or its duly authorized representative, shall be made in accordance with the procedure required hereby, subject to the same limitations and requirements as those under which the plans were originally approved. (Ord. 2001-42)

### **§ 154.405 RESERVED.**

### **§ 154.406 UNDERGROUND AND BURIED UTILITIES AREA.**

The City of Hobart hereby establishes an Underground and Buried Utilities Area ("Area") to be in effect on April 30, 2017, and to apply throughout the City's Right-of-Way ("ROW") and granted utility easements, and said Area is hereinafter defined as follows:

(A) In all areas of the City where no overhead or above-ground utilities, utility facilities, overhead lines or associated overhead structures used or useful in supplying electric, communication, or similar and associated services currently exist;

(B) In all areas of the City in which planned road projects, redevelopment areas, and/or economic development areas provide for and require underground buried utilities and utility facilities, including but not limited to electric, communication and similar or associated services;

(C) In all areas of the City which would require compliance with [§§154.399 through 154.406](#) of the City of Hobart Municipal Code (“HMC”);

(D) In all other areas of ROW or proposed ROW throughout the City or in a utility easement granted by the City, whether or not above-ground utilities or utility facilities currently exist;

(E) Notwithstanding sub-sections (A) through (D) above, any utility that requires construction, placement, or use of a small cell facility in an area designated strictly for underground or buried utilities, may submit an application to the City Board of Public Works and Safety requesting a waiver to install new utility poles or new wireless support structures in the Area pursuant to the provisions of HMC [§§154.400 through 154.403](#), except that said sections shall be deemed to have been amended or rendered inapplicable, in whole or in part, to comply with the provisions of the Indiana Code governing a “micro wireless facility” or “small cell facility” as those terms are defined in I.C. 8-1-32.3-7.5 and I.C. 8-1-32.3-9, respectively: I.C. 8-1-32.3-4.2, I.C. 8-1-32.3-7.5, I.C. 8-1-32.3-9, I.C. 8-1-32.3-12, I.C. 8-1-32.3-12.5, I.C. 8-1-32.3-13, I.C. 8-1-32.3-14, I.C. 8-1-32.3-15, I.C. 8-1-32.3-26, and I.C. 8-1-32.3-27.  
(Ord. 2017-06, § 2)

#### **§ 154.407 OVERHEAD POLES, LINES OR STRUCTURES PROHIBITED.**

From and after the effective date of this subchapter, no person, utility, corporation or other organization shall erect or construct within the City’s ROW or granted utility easement any pole, overhead line, or associated overhead structure used or useful in supplying electric, communication, or similar and associated services.  
(Ord. 2017-06, § 2)

#### **§ 154.408 UNDERGROUND OR BURIED PLACEMENT OF UTILITIES REQUIRED.**

Unless expressly authorized by the City Board of Public Works and Safety, all utilities located within the City’s ROW or granted easement shall be placed underground or buried.  
(Ord. 2017-06, § 2)

#### **§ 154.409 EXISTING POLES, WIRES OR LINES.**

All existing overhead poles, wires and utility transmission lines may remain within the City’s ROW or utility easement, but may not be replaced or relocated without the written authorization of the City Board of Public Works and Safety.  
(Ord. 2017-06, § 2)

#### **§ 154.410 SEVERABILITY.**

In the event that any provision of [§154.399](#), and [§§154.406 through 154.411](#) is found by a court of competent jurisdiction to be unconstitutional or unenforceable for any reason, then the remaining provisions of such sections shall be given effect to the extent practicable.  
(Ord. 2017-06, § 2)

**§ 154.411 MAP OF AREA OR AREAS.**

The map appended to Ordinance 2017-06 enacting this Section shows the boundaries of the City's Underground and Buried Utility Areas as of the time of adoption of this section. Such map shall be updated from time to time by the Board of Public Works and Safety, and is made an integral part of this section.  
(Ord. 2017-06, § 2)

***SITE PLAN***

**§ 154.415 PURPOSE.**

It is the purpose and intent of this subchapter to:

(A) Require the systematic assessment of land development proposals in terms of a community's land development policies and regulations and commonly accepted site design practices;

(B) Assure conformance to the city's comprehensive plan, resolve policy issues, create site planning and design policy, expedite project approval, solve technical errors and encourage planning and design in accordance with generally accepted practice;

(C) Promote and enhance the beauty of the City of Hobart through building design, tree preservation and landscaping;

(D) Safeguard the ecological environment of the City of Hobart by dissuading the unnecessary clearing and disturbing of land and existing natural vegetation; and

(E) Promote planting of trees and shrubbery on public and private land.

(F) Promote and enhance drainage of stormwater throughout the City of Hobart through proper planning and verification that plans are properly implemented.

(G) Promote and enhance the aesthetic nature and financial stability of buildings and properties throughout the City of Hobart.  
(Ord. 2002-10, § 6, Ord. 2019-01, § 1, Ord. 2019-17)

**§ 154.416 RULES FOR REVIEW.**

Site plans are reviewed to determine whether they are consistent with the comprehensive plan, and all other relevant city plans and policies to determine whether they comply with all applicable regulations, including the zoning ordinance, subdivision regulations, building codes, design guidelines, and the site plan review factors listed below in §154.419.  
(Ord. 2002-10, § 6, Ord. 2019-17)

**§ 154.417 APPLICABILITY OF REVIEW.**



## Zoning

(A) The following shall be required to undergo site plan review prior to issuance of preliminary subdivision approval, or in the case of a parcel already subdivided, prior to issuance of a fill permit or a building permit that involves adding or changing the size, shape or location of structures on the property or otherwise results in significant change to the topography of the property as determined by the City Engineer:

- (1) Multi-Family Residential (R-4) zoned property of any size containing more than 4 units;
- (2) Manufacturing (M) zoned property of any size;
- (3) Business (B) zoned property of any size; and
- (4) Planned Unit Development (PUD) zoned property of any size;
- (5) Office-Service (OS) zoned property of any size; and
- (6) Planned Business Park (PBP) zoned property of any size.

(B) All site plan approvals shall expire 18 months from date of approval by the Plan Commission.

(C) Major site plan applications consisting of one or more acres shall require a public hearing; or as determined by the Plan Commission and City Planner the proposed development would significantly impact the surrounding properties.

(D) Site plans for single family to four unit family (R-1, R-2, R-4) residential properties may be approved or disapproved by the City Planner after review by the City Engineer and Stormwater Coordinator. If disapproved by the City Planner, the petitioner may request Site Plan review by the Plan Commission. The City Planner may refer any Site Plan to the Plan Commission if he/she feels there are special or unusual issues associated with the Site Plan that require review from the Plan Commission. The special or unusual issues that should cause the City Planner to refer the plan to the Plan Commission include drainage issues, noise issues, traffic issues, visual issues that may cause the property to appear inconsistent with neighboring structures or properties or any other issues that may negatively impact the aesthetic nature or financial stability of neighboring properties. The Plan Commission shall provide the City Planner with the guidance on the other issues that it feels warrant its review of Site Plans. In situations where the Plan Commission is reviewing a Site Plan, it may require a Public Hearing with notification of neighboring property owners.

(E) All required Site Plans, other than those for individual residential properties, shall be reviewed and approved or disapproved by the Plan Commission.

(Ord. 2000-14; Ord. 2002-10, § 6; Ord. 2017-09; Ord. 2019-01, §2, Ord. 2019-17)

### **§ 154.418 COMPONENTS OF REVIEW.**

The following subjects are appropriate for review of a site plan:

- (A) Land use;

## Hobart - Land Usage

- (B) Traffic impact;
  - (C) Utility impact;
  - (D) Urban design principles;
  - (E) Aesthetic and economic impact on neighboring properties;
  - (F) Public safety/services;
  - (G) Environmental;
  - (H) Drainage impact;
  - (I) Stormwater (§ 154.420, HMC Chapter 152);
  - (J) Site Design (§ 154.421);
  - (K) Building Design (§ 154.422); and
  - (L) Landscaping (§ 154.423).
- (Ord. 2002-10, § 6; Ord. 2019-01, §3; Ord. 2019-17)

### § 154.419 REVIEW FACTORS.

In reviewing a site plan, the Plan Commission shall consider the above-mentioned components as follows:

- (A) *Land use.*
  - (1) The development must comply with the land use plan.
  - (2) The development must be consistent with area development trends.
  - (3) The development must be properly zoned for the intended use.
  - (4) Natural features of the property to be developed must be maintained and accentuated.
  - (5) The development must be consistent with adjacent land use.
  - (6) Compatible uses shall be located adjacent to each other, while incompatible uses shall be buffered from each other.
  - (7) Uses shall be located in direct proximity to that portion of the transportation system best suited to accommodate these uses.
  - (8) The developer shall locate uses so as to continue areas containing such uses.

## Zoning

(9) Uses should be located in a manner which will minimize changes to topography and vegetation.

(10) The development must organize density to locate the largest number of people in closest proximity to their destination.

(B) *Traffic impact.*

(1) The development must contain an appropriate level of accessibility.

(2) The thoroughfare system which the development depends on must have sufficient capacity.

(3) The residual impact to adjacent roadways and intersections must be minimized.

(4) Functional and alignment continuity between developments must be maintained.

(5) Adequately-sized and paved off-street parking must be a part of each development.

(6) Pedestrian/bicycle routes must be sited and designed to provide safe separation from vehicular movements.

(7) All industrial, businesses, office-service, and multi-family uses, shall scale-up Functional Class road access to a Principal Arterial, to the extent possible, commencing with Minor Collector, Major Collector, and Minor Arterial.

(8) All single-family uses shall be provided principle access via a local road.

(9) Other factors being equal, the amount of pavement shall be minimized.

(10) Pedestrian and vehicular movement areas shall be separated to the extent possible.

(11) Parking shall be separated from access drives.

(12) Delivery and loading areas shall be separated from customer/pedestrian areas.

(13) The distance between parking areas and structures which they serve shall be minimized.

(14) Parking when possible shall be visually obscured from the public rights-of-way; rather, the structure and accompanying landscaping shall be the dominate visual presence on site.

(15) Access roads shall align with other roadways to result in 4-way intersections, rather than offset.

(16) "T" or off-set intersections shall be discouraged, but if unavoidable, shall be a minimum of 250 feet apart, measured at their centerline.

(17) Roadways shall intersect with others at or near 90 degrees.

(18) Developments, or phases of developments shall not result in dead-end streets.

## Hobart - Land Usage

(19) The number and length of cul-de-sacs shall be minimized and, in no case, shall the length exceed 600 feet.

(20) Frontage roads paralleling arterials shall intersect with adjacent roadways a minimum of 500 feet from the arterial.

(21) One-way diagonal parking areas are preferable to 2-way 90-degree parking.

### (C) *Utility impact.*

(1) The utilities servicing the development must have sufficient current and potential capacity.

(2) The potential benefits of over sizing for future use must be weighed against cost.

(3) The development shall not have an adverse effect on the downstream stormwater outlet.

(4) The off-site utilities must be installed consistent with the capital improvements program.

(5) All developments must result in a stormwater management system which simulates the pre-developed condition, or better.

(6) Pond design and placement shall be regionalized when possible, but otherwise shall result in an aesthetically pleasing architectural amenity.

(7) Utility location shall result in maximizing maintenance access and avoiding backyard or side yard locations.

(8) No large-scale development shall occur which is reliant on individual septic systems.

(9) When developments are phased, each phase must be viewed as the last phase, and shall therefore not rely on any future phase in order to satisfy the provisions of this policy.

(10) All utilities, except power transmission lines, shall be installed underground.

(11) All wireless communication facilities, utilities and services shall comply with [§§154.395 through 154.411](#) of the Hobart Municipal Code.  
(Ord. 2017-08)

### (D) *Urban design principles.*

(1) The proposed development must be compatible as to form with neighboring developments.

(2) Each development must become a part of a larger neighborhood and, therefore, cannot be an island unto itself.

## Zoning

(3) Each site to be developed must be well defined and shall be large enough to avoid a piecemeal approach.

(4) The development must be adequately screened and buffered to minimize the ill effects of both the development on the surrounds and vice versa, and to provide identity and definition to the development.

(5) Open space, trees and shrubs, fences, earth berms or compatible transitional land uses may all serve as buffers.

(6) Adequate landscaping shall be placed around the perimeter of the site, near the building and internal to the parking lot to minimize the ill effect of excessive paved areas.

(7) Features which possess uniqueness on a site shall be preserved.

(8) Structures shall not be located in the floodway.

(9) Changes to the natural terrain shall be minimized, including stands of mature trees.

(10) Open space proposed by a developer must be accessible, and where possible linked to an overall city-wide system.

(11) The development must result in a separation of residential areas from major noise-producing sources.

(12) Development shall be restricted on lands with steep slopes, wetlands, unstable soil, filled areas or areas of unique vegetation.

### (E) *Aesthetic and Financial Impact.*

(1) Goals:

(a) Minimize any negative financial impact on neighboring properties;

(b) Harmonize, generally, the appearance of new buildings with existing buildings on neighboring properties;

(c) Encourage the development of buildings that maintain and enhance the market value of surrounding properties;

(d) When possible, remedy existing aesthetic problems created by previous development activities.

(2) Comparison with neighboring buildings and properties: The following characteristics should be considered when comparing new buildings with existing buildings on neighboring properties:

(a) Density;

**Hobart - Land Usage**

- (b) Square footage;
- (c) Building set back;
- (d) Ground floor elevation;
- (e) Building height;
- (f) Materials used on exterior of the buildings;
- (g) Planting and landscaping planned for the front yard;
- (h) Style and size of fences.

(3) Submitted opinions of impact: Property owners, neighbors or other concerned citizens may submit a Letter of Estimated Economic Impact from a Licensed Real Estate Broker or Appraiser at the time the Site Plan is being reviewed in support or opposition of the planned building or development. The Letter of Estimated Economic Impact should contain:

- (a) Name of the owner, neighbor or other concerned citizen who is submitting the letter;
- (b) Name and signature of the Licensed Real Estate Broker or Appraiser who is giving the opinion;
- (c) Address of the property being developed; and

(d) Whether the Licensed Real Estate Broker or Appraiser believes the proposed property being developed will have a positive, neutral or negative financial impact on neighboring properties.

(Ord 2002-10, § 6; Ord. 2019-01, § 4)

(F) *Public safety/services.*

(1) The proposed development shall not pose an undo burden on police or fire services.

(2) If the development results in a significant increase for park, school or other public services, property dedicated for these purposes shall be required as a condition of development.

(3) Appropriate right-of-way and easement dedications shall occur in order to provide necessary access for proper utility maintenance.

(4) Streets internal to a development may be dedicated or private, depending on their design and function.

(G) *Environmental*, performance standards as noted in HMC sections:

- (1) Noise § 154.215

**Zoning**

- (2) Odorous matter § 154.216
- (3) Vibrations § 154.217
- (4) Toxic or noxious matter § 154.218
- (5) Glare or heat § 154.219
- (6) Fire and explosive hazards § 154.220
- (7) Air pollution § 154.221
- (8) Water pollution § 154.222  
(Ord. 2016-44, § 13)

(H) *Drainage impact.*

- (1) The goals of reviewing drainage shall be to:
  - (a) Minimize the impact of drainage and runoff on neighboring properties;
  - (b) Reduce and delay the impact of rain or thawing events on ditches, creeks, rivers and storm water management structures;
  - (c) Work towards the goal that rain and thawing snow should remain on the property as long as possible to slow its downstream impact and maximize the amount that is absorbed into the soil on site; and
  - (d) When possible, work to correct existing drainage problems created by previous development activities.
- (2) All site plans shall include a Drainage Plan that is prepared by a licensed professional engineer or licensed professional surveyor. The Drainage Plan shall include:
  - (a) Current property elevations;
  - (b) Proposed finished property elevations. In the case of developments with multiple properties that will be developed at a future time, the proposed property elevations shown in the Drainage Plan should be the elevations after the individual properties are developed in the future. In cases where the subdivision or installation of infrastructure in a development of lots that will be developed in the future, will change the topography of the property, the Drainage Plan should also include the planned elevations that will exist after subdivision and installation thereof;
  - (c) Description of how water currently flows on the property;
  - (d) Size, location and elevation of all structures and driveways to be located on the property. In the case of developments with multiple properties that will be developed at a future time, a general description of the potential size and location of structures and driveways is

all that is required;

(e) Detailed plans for any proposed changes to drainage plans or drainage structures;

(f) Detailed plans for any proposed changes to drainage easements and plans on how they will be recorded; and

(g) In cases where there is an approved Drainage Plan for the development where the property is located, the City Engineer may allow the petitioner to use the developments Drainage Plan to serve as the Drainage Plan for an individual property in the development, if they so desire, eliminating the need for an individual Drainage Plan for each property in the development, in which case the property must be developed as defined in the developments Drainage Plan and a foundation survey and post-development survey are still required for each property as described below.

(3) All foundation inspections shall include a survey of the foundation that is performed by a licensed professional surveyor. The survey must show that the foundation is properly located on the property and that it is at the correct height before the foundation is approved.

(4) All Drainage Plans must be verified with a post-development “as-built” survey by a licensed professional surveyor that shows that the Drainage Plan was properly implemented as approved. This survey must be reviewed and approved by the City Engineer. Any failures in implementing the Drainage Plan must be corrected before a Certificate of Occupancy can be issued for the property.

(5) All Fill Permit requests that are presented to the Plan Commission for approval must include a Drainage Plan as described above and must have the post-development “as-built” survey approved by the City Engineer as described above. The City Engineer may require Drainage Plans and post-development “as-built” surveys on Fill Permits he/she approves if he/she feels it is necessary.

(6) Building Permits for adding auxiliary structures on previously developed properties or Demolition Permits for removing structures, do not require the creation of a Site Plan or Drainage Plan as long as the construction of the new auxiliary structure or removal of the existing structure does not negatively impact the drainage on the property. Before issuing a Building Permit for the construction of an auxiliary structure or issuing a Demolition Permit, the Building Commissioner may request the project be reviewed by the City Engineer, who may require a Site Plan and/or Drainage Plan be created if he/she feels the project may negatively impact the drainage on the property.

(Ord. 2019-17)

#### **§ 154.420 STORMWATER.**

(A) Management of stormwater quantity and quality shall meet the requirements of the current Hobart Municipal Code, Chapter 152. To the extent possible, all retention requirements shall be accommodated in the least number of ponds or dry areas. Centralized detention shall be preferred to a series of smaller ponds or areas.

(B) All detention areas shall be the responsibility of the owner or maintenance association



## Zoning

for the industrial/business park in which they are located.

(C) Applicants are encouraged to incorporate a combination of the Best Management Practices (BMPs) from HMC §152.063 for post-construction stormwater quality management, or:

- (1) Bioretention
- (2) Constructed wetlands
- (3) Filter strip
- (4) Vegetated swale
- (5) Wet pond

(Ord 2016-44, § 9; Ord. 2019-17)

### § 154.421 SITE DESIGN.

(A) *Site Planning*: Site planning encourages compatibility between the site and the buildings, and between tall buildings on the site is encouraged. Where natural or existing stands of woodlands, heritage trees, or topographic patterns contribute to a development, they shall be conserved and integrated. Grading and other modifications to topography shall be permitted but shall avoid negative drainage impacts.

(B) *Infrastructure and Service*: Newly installed infrastructure and service revisions necessitated by exterior alterations shall be located/installed underground.

(C) *Refuse and Waste*: Location of refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways, using materials consistent with the building design.

(D) *Street Access*: All lots shall be required to have legal access to a public street for both vehicle and pedestrian traffic.

(E) *Building Orientation*: Buildings shall promote interaction with its primary access street to provide a pedestrian friendly, walkable environment. All primary and outlot site buildings shall be arranged so that they complement existing development. The buildings shall frame a corner or enclose a “main street” type corridor. Buildings on islands surrounded by parking should be avoided.

(1) All building facades facing an interstate highway, major or minor arterial or collector or a residential district shall be a finished façade in compliance with the requirements in HMC § 154.422.

(2) *Loading Spaces*: No loading spaces shall be permitted to face a major or minor arterial, collector or other street where a residential district exists on the opposite side of said street.

(F) *Vehicular Circulation*: Major arterial streets/roads, and major collector streets/roads

## Hobart - Land Usage

must have reasonable restrictions as to the numbers and location of access points in order to provide safe and sufficient traffic movement to and from adjacent lands.

(1) Frontage roads, access roads, and other internal drives shall be major and minor arterials and major collector streets must be constructed to create a hierarchy of roads for safe on-site circulation. These internal drives shall provide pedestrian access and landscaping.

(2) New access points onto the major and minor arterials shall be coordinated with existing access points whenever possible and approved by the Plan Commission.

(3) Cross-access easements shall be required between adjacent developments.

(4) No curb cuts shall be within two hundred feet (200') of any intersection of public roads.

(5) Opposing curb cuts shall align squarely or upon approval be offset no less than fifty feet (50').

(6) Stub streets shall be built in all cases where adjacent lots have reasonable potential for development.

(G) *Pedestrian Circulation:* Pedestrian access routes must consist of an accessible, easily-discernible sidewalks, walkways, or multi-use paths.

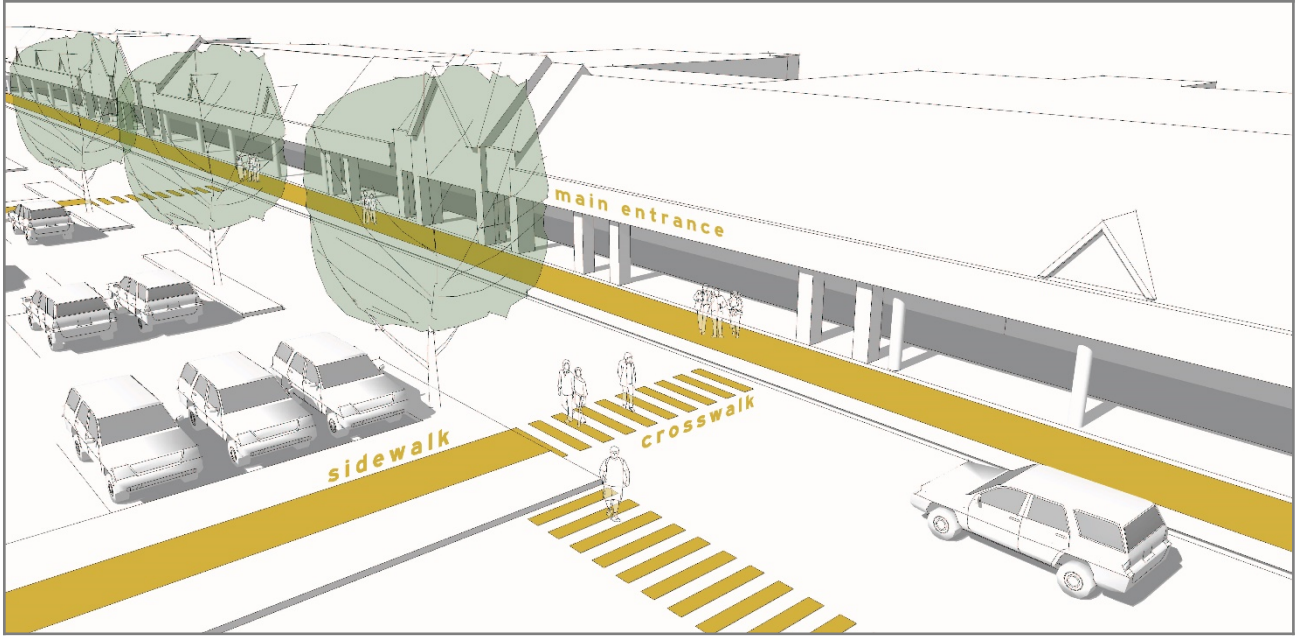
(1) Sidewalks shall be required on at least one (1) side of each street within a development.

(2) Sidewalks and on-site pedestrian routes shall be at least five feet (5') wide except those located on a street designated for a minimum eight foot (8') wide multi-use path, trail, or as part of a bicycle and pedestrian master plan.

(3) The on-site pedestrian circulation system must provide safe, direct, and convenient pedestrian routes connecting main entrances of buildings and uses with all other entrances and with available access points including parking, streets, sidewalks, and transit stops.

(4) Where pedestrian routes cross parking lots, drive aisles, or other vehicular use areas, they must be clearly differentiated from the vehicles surface through the use of physical separation or by durable, low-maintenance material such as pavers, bricks, scored concrete, pavement textures, to define places of pedestrian movement.

*Figure 421-1: Pedestrian Access Routes*



(H) *Bicycle Facilities:* Bicycle parking areas shall be provided in proportion to the total number of parking spaces installed as follows:

(1) A minimum of one (1) bicycle parking space shall be provided per thirty (30) vehicle parking spaces.

(2) No more than fifteen (15) bicycle parking spaces shall be required for any primary structure.

(3) The bicycle parking spaces must be at least as conveniently located as the most convenient non-disabled motor vehicle parking provided. If no motor vehicle parking is provided, bicycle parking spaces must be within sixty feet (60') of the main entryway into the primary structure.

(4) A city-approved bike rack or bike locker shall be installed to secure the bicycles.  
(Ord. 2016-44, § 8; Ord. 2019-17)

**§ 154.422 BUILDING, FENCE/WALL, and LIGHTING DESIGN.**

(A) *New Building Construction.* The facades of all structures shall be either one or a combination of the following: brick, native stone, structural concrete panels, exterior insulated finish system (EIFS), architectural precast concrete, and/or architectural metal. Portions of the buildings faced with glass and pedestrian and vehicle doors shall be excluded from any calculation of building materials compliance.

(1) The primary material shall be used for a minimum of fifty percent (50%) of the façade of each structure (excluding any glass surfaces and doors).

(2) Concrete block is not a permitted exterior finish material.

**Hobart - Land Usage**

(3) The primary building material (excluding window, door, roofing and soffit materials) used on each applicable façade shall be:

(a) Brick or other masonry material.

(b) Architectural Precast Concrete: Architectural precast concrete shall be defined as architectural grade precast materials meeting industry defined standards for uniformity of appearance, surface details, color, and texture. Precast concrete shall include at least two (2) textures (e.g. rough, smooth, striated, etc.) or at least two (2) colors with the secondary texture or color constituting a minimum of ten percent (10%) of the façade (exclusive of texture or color variation resulting from windows, doors, roofing and soffit materials.)

(c) Architectural Metal: Architectural metal shall be defined as corrosion resistant material such as stainless steel, galvanized steel, copper, zinc, bronze, brass, and anodized and factory coated aluminum meeting industry defined standards for uniformity of appearance, surface details, color, and texture.

(4) Utility features of the facility, such as loading docks and service areas, shall not be construed to be an architectural detail or feature to meet façade relief requirements in Design Guidelines.

(B) *Additions to an Existing Building.* All additions to an existing building shall utilize buildings materials with a style, color, texture and architectural detailing which is compatible and harmonious with the materials used on the existing building, or as described in HMC § 154.222(A).

(C) *Exterior Building Façade Renovations with No Building Additions or Minor Building Additions.*

(1) Exterior building façade renovations which involve no building additions or only minor building additions shall demonstrate reasonable efforts to incrementally bring the exterior façade, which is being renovated or added to, into compliance with the provisions for new construction, specified in HMC § 154.222(A). Full compliance with the provisions for new construction shall not be a requirement for approval.

(2) Exterior building façade renovations shall not include the painting of brick, stone, architectural precast or other natural exterior wall or siding products.

(D) *Exterior Building Façade Renovation with Major Building Additions.* Exterior building façade renovations performed in connection with a major building addition as described herein shall comply with the provisions for new building construction specified above in HMC § 154.222(A).

(E) Front and side facades of buildings located on corner lots or parcels shall be of the same materials and similarly detailed.

(F) *Outdoor Employee Areas:* If provided, any structures or enclosures erected for outdoor employee areas not located within a loading or service area shall be of the same of similar materials as the building and shall be compatibly detailed with HMC § 154.222(A).

**Zoning**

**(G) Entry Design.**

(1) The location, orientation, proportion and style of doors must faithfully reflect the chosen style of the building.

(2) Building facades for wholesale and warehouse uses shall be designed with a main entrance and at least two (2) window openings associated with the entry design.  
(Ord. 2016-44, § 10)

**(H) Fences and Walls.**

(1) Fences and walls shall not exceed eight feet (8') in height in rear and side yards.

(2) Fences shall be constructed of materials such as brick, stone, decorative block, metal or wood.

(3) Landscaping shall be used to complement the fence.

(4) Breaks should be provided by variation in height, columns, recesses, and projections. Maximum uninterrupted length of fence plane should be one hundred feet (100').

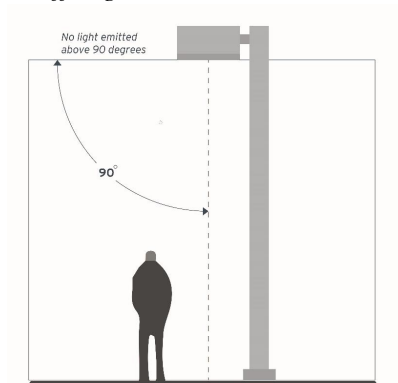
(5) Chain link fences are prohibited in front and side yards and shall not be visible from the adjacent right-of-way. Chain link fences shall be coated with black vinyl and screened with vegetation.

(6) Barbed wire, twisted wire, and razor wire is prohibited fence material. Alternative security fence material and designs are permitted.  
(Ord. 2016-44, § 12)

**(I) Exterior Lighting.** Site lighting shall comply with HMC § 154.358(G)(4) and the following requirements:

(1) **Illumination.** All exterior lighting, including pole lights and wall pack lights, shall be of Metal Halide or LED (light emitting diode) or other type of lighting deemed appropriate and approved as part of a Site Plan. Fixtures shall be full cut-off fixtures directed at the surface being illuminated.

*Figure 422-1: Full Cut-Off Light Fixture*



(2) Pole Lights. Pole mounted light fixtures shall not exceed twenty-five feet (25

) in height in pedestrian areas. Height may be increased to thirty-five feet (35') in parking areas. Height shall be measured as the distance between the grade level of the surface being illuminated and the bottom of the lighting fixture.

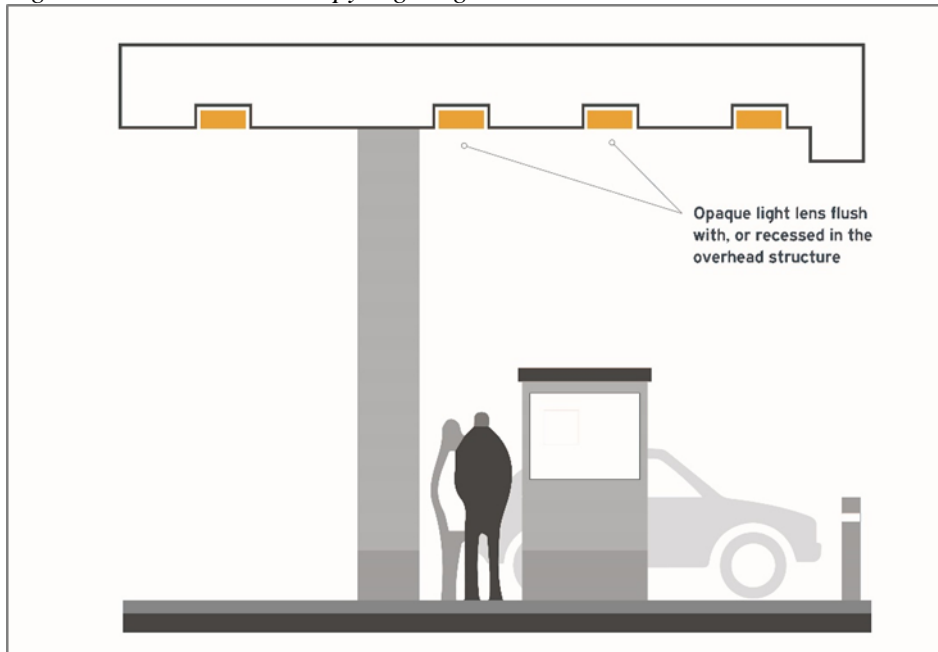
(3) Wall Mounted Light Fixtures. Fixtures illuminating building facades shall be located, aimed, and shielded so that light is directed only onto the building façade. They shall be designed to wash the façade of the building with light (rather than providing a spotlight affect). Exterior façade lighting shall be contained on the building façade and shall focus on entries and architectural features.

(4) Pole and Wall Pack Light Fixtures. All post light fixtures and wall pack light fixtures with a wattage of four hundred (400) watts or above, shall be equipped with a flat lens that does not protrude below the bottom edge of the housing.

(5) Mounted Pole and Wall Pack Light Fixtures. All pole light fixtures and wall pack light fixtures shall be mounted parallel with the horizon and shall utilize a rigid mounting arm with no built-in up-tilt and no adjustment feature.

(6) Vehicular Canopy Light Fixtures. All vehicular canopy light fixtures, including but not limited to gasoline service station canopies and bank drive through canopies, regardless of wattage, must be recessed into the canopy and be equipped with a flat lens that does not protrude below the bottom edge of the light fixture.

Figure 422-2: Under-Canopy Lighting



(7) Externally Illuminated Signs. Fixtures illuminating signs shall be located, aimed, and shielded so that light is directed only onto the sign face, with minimal light spillage around, below, and/or above the sign.

(8) The use of site and parking lot lighting provided by a utility company does not

relieve the owner or developer from conforming to lighting design standards.  
(Ord. 2016-44, § 14; Ord. 2019-17)

**§ 154.423 LANDSCAPING.**

(A) *Definitions.*

**CALIPER.** The diameter measurement of the trunk taken 6 inches above ground level.

**DIAMETER BREAST HEIGHT (DBH).** The diameter of a tree in inches 4-1/2 feet above the ground.

**EXEMPT TREE.** Any tree on the exempt list, as maintained and provided by the City of Hobart Parks and Recreation Department.

**NUISANCE TREE.** A diseased or weakened tree with an accelerated potential to cause physical human harm or to cause property damage.

**PERSON.** Any individual, corporation, business or any other entity, whether private or governmental, including the City of Hobart.

**PRIORITY TREE.** Any tree on the priority tree list, as maintained and provided by the City of Hobart Parks and Recreation Department.

**PUBLIC PROPERTY.** All property owned by the City of Hobart or any agency or department thereof and all property included in the public way, as defined by this chapter.

**REPLACEMENT TREE.** A tree 2-inch caliper or greater which is not an exempt tree. Further, **REPLACEMENT TREES** shall conform at mature size with the planting space, taking into consideration buildings, sidewalks, curbs and overhead and underground utilities.

**TREE.** A woody, perennial plant, ordinarily with 1 main stem or trunk, which develops many branches and which ordinarily grows to a height of 10 feet or more with a diameter in excess of 6 inches at a height of 5 feet.

**TREE CANOPY.** The area covered by tree stems, branches and leaves as viewed overhead. **CANOPY** shall be quantified in square foot coverage.  
(Ord. 2017-04, § 1)

(B) *Landscape plans applicability and approval process.*

(1) The requirements of this section shall apply to:

- (a) Projects requiring site plan approval;
- (b) Projects requiring subdivision approval; or
- (c) Projects requiring planned unit development approval.

## Hobart - Land Usage

(2) Landscape plans shall be submitted to the Site Review Committee and shall be required for all such projects hereunder unless specifically expressed in this subchapter.

(3) During initial site review for projects requiring a landscape plan, a site plan shall be submitted to the Site Review Committee which depicts the general location of any existing tree canopy in relation to existing and proposed site improvements.

(4) Landscape plans submitted to the Site Review Committee shall be forwarded for approval to Hobart Plan Commission or its designee. Changes to an approved landscape plan, which reduce the number of trees to be planted and/or remove additional non-exempt trees of 10-inch DBH, shall require the review and approval from the Hobart Site Review Committee.

### (C) *Contents of landscape plan.*

(1) Landscape plans shall be drawn to scale of not less than 1 inch equals 50 feet or as an overlay on a topographical survey.

(2) Landscape plans shall contain the following criteria or information estimated as close as possible:

- (a) The location of existing and proposed structures;
- (b) The location of parking lots, drives, roadways, rights-of-way and sidewalks;
- (c) The elevations and locations of all fences, bridges, retaining walls or other similar details;
- (d) The number, species, and general location of all non-exempt trees of 10-inch DBH or greater to be removed;
- (e) Lot coverage calculations before and after site (re)development;
- (f) The DBH, general location, species of all trees and plant material to be planted after site (re)development;
- (g) Residential subdivisions and planned unit developments shall be required to show trees and plant material within public property, common areas, open space and/or recreation areas;
- (h) A summary of the covenants and restrictions that pertain to this subchapter;
- (i) A statement of the methods by which the applicant will satisfy the requirements of this subchapter throughout site (re)development.

(3) Landscape plans shall show how the developer intends to work with the natural features of the property, with special concern being given to the preservation of mature trees and those trees on the priority tree list during site (re)development.

(4) Landscape plans shall specify the planned impact of proposed improvements and development (overhead lines, roadways, berms, parking areas and the like) upon the property.



## Zoning

### (D) *Selection, maintenance and installation of plant materials.*

(1) Planting materials used by any person in conformance with provisions of this section shall be of good quality and of a species expected to thrive in the climate of Northwest Indiana.

(2) All landscaping material used by any person shall be installed in accordance with planting procedures which shall be established and made available by the City of Hobart Parks and Recreation Department.

(3) The scale and nature of landscape material should conform at maturity to the site and structures. For example, larger scaled buildings should ordinarily be complemented by larger scaled plants.

(4) Evergreen should be incorporated into the landscape treatment of a site, particularly in those areas where parking lots are otherwise required to be screened.

(5) Trees and plant materials used to satisfy the landscape, screening, and bufferyard requirements of this ordinance shall be selected from the list of species identified in HMC [§154.423\(J\) Priority Tree List](#), and [§154.423\(K\) Recommended Tree and Plant Species](#).

(6) All plant materials shall be allowed to grow and mature (after ten year time period) over time and shall only be trimmed in the event of damage or disease. All plant material that dies shall be replaced during the soonest planting season (spring or fall). Replacement of dead plants is the responsibility of the property owner who shall:

- (a) Prohibit topping, limbing-up, and other similar practices.
- (b) Install drought tolerant species for large lot landscaping.
- (c) Encourage groundcovers in place of turf grass.

(7) Irrigation is strongly recommended to establish new plantings and to maintain established plantings through dry periods. Suggested equipment includes the following:

- (a) Drip irrigation i.e. Gator Bags, line emitters, and bubblers.
- (b) Overhead irrigation should be limited to turf or micro sprinklers for small areas.

(c) Watering is discouraged from 10 AM – 6 PM and grass should not be watered daily except when establishing new landscaping material.

(Ord. 2016-40, § 1)

### (E) *Landscape Area Requirements.*

(1) *Residential development.* Sites occupied by multiple-family buildings containing 4 or more units shall have at least 1/5 of the green space required for such project covered by plantings consisting of shade trees, evergreen trees, shrubbery and other ground plantings, but not including grass. Landscape islands within the interior of a parking lot shall count toward the 1/5

requirement.

(2) *Business, Office Service, Planned Business Park, and Manufacturing/Light Industrial use developments.* In Business (b), Office-Service (OS), Planned Business Park (PBP), Manufacturing (M), and all Planned Unit Development (PUD) for all projects involving the construction of a new building or buildings; or the expansion of any existing building on all portions of every lot or parcel either occupied or unoccupied by structures, parking areas, or other paved surfaces shall be designed, constructed, and maintained in a cultivated landscape condition to include the following:

(a) Open area, undeveloped portions of each parcel shall be planted with drought-tolerant grass or other vegetative ground cover.

(b) Stone, rock, or gravel may be used as a landscaping accent, but shall not exceed ten percent (10%) of the area of the required yard in which it is used.

(c) Shrubs shall be a minimum of eighteen inches (18") in height at the time of planting, measured from the top of the rootball.

(d) Deciduous trees shall have a trunk measuring a minimum of two and one-half inches (2-1/2") in diameter at six inches (6") above the rootball at the time of planting.

(e) Evergreen trees shall be a minimum of six feet (6') in height at the time of planting measured from the top of the rootball.

(f) Yard Areas, in all lots or parcels, or other open areas that are to remain undeveloped and are not being held for future phased development shall include plant material with a minimum of one (1) shade tree for every five thousand square feet (5,000) of yard area (excluding all common areas, buffer areas, landscape easements, parking lot interior and perimeter landscaped areas, and other similar features), with no more than twenty-five percent (25%) of trees planted in each yard area may be of an ornamental variety. (Ord. 2016-40, § 2)

(3) *Parking lots.* All accessory and non-accessory parking lots that include four (4) or more parking spaces shall be subject to the following parking lot landscaping requirements:

(a) The perimeter of each parking lot shall be screened from streets and from abutting residentially zoned lots using a combination of trees, plant materials, decorative fences, decorative walls, and/or earthen berms. Required parking lot perimeter landscaping shall include at least one (1) tree per thirty-five linear feet (35') of parking lot perimeter. Shrubs must be provided along street frontages at a rate of at least 10 shrubs per 35 linear feet of parking lot perimeter and shall be arranged to provide visual screening of the parking area. Required trees are not required to be evenly spaced, but the distance between trees may not exceed 90 feet.

(b) Landscape islands shall be provided at the ends of each parking aisle, with additional landscape islands reasonably dispersed throughout the parking lot. At least one (1) island must be provided per every fifteen (15) parking spaces. All landscape islands shall be at least 360 square feet in area and include at least one shade tree. Landscape islands shall be filled with planting soil or existing soil that has been tested and amended to support the plant material.

Zoning

(c) All required perimeter and interior parking lot landscaping shall be protected from vehicle travel through the use of curbing and/or wheelstops.

Figure 423-1: Parking Lot Landscaping

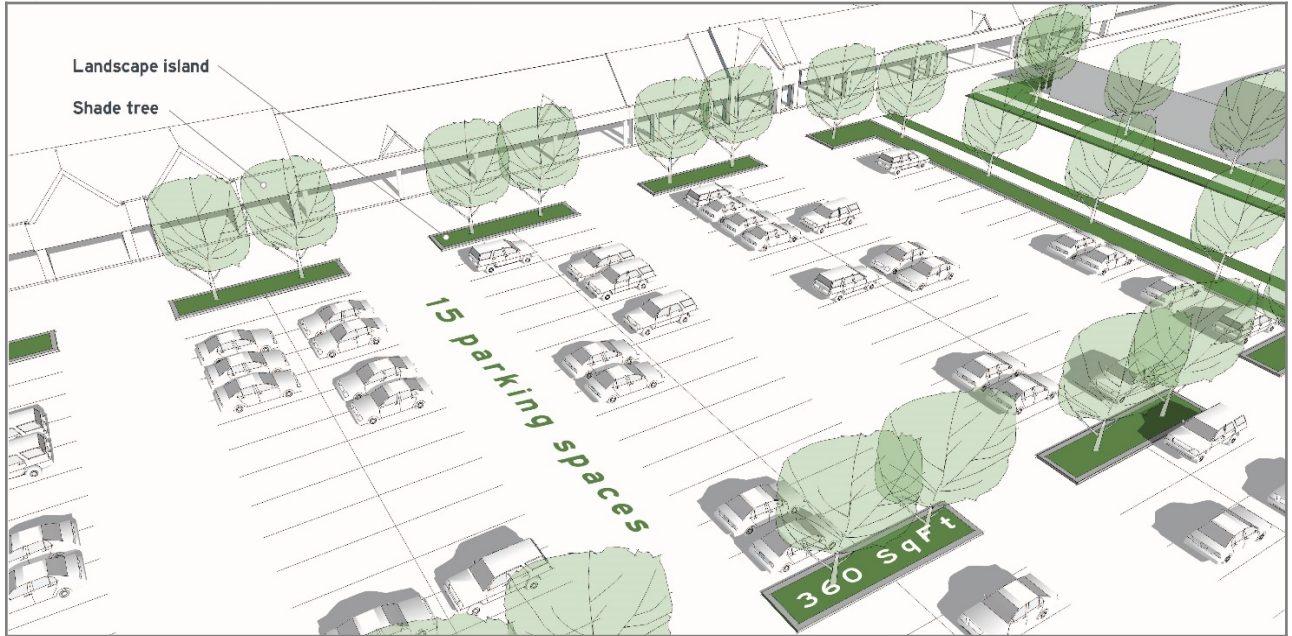
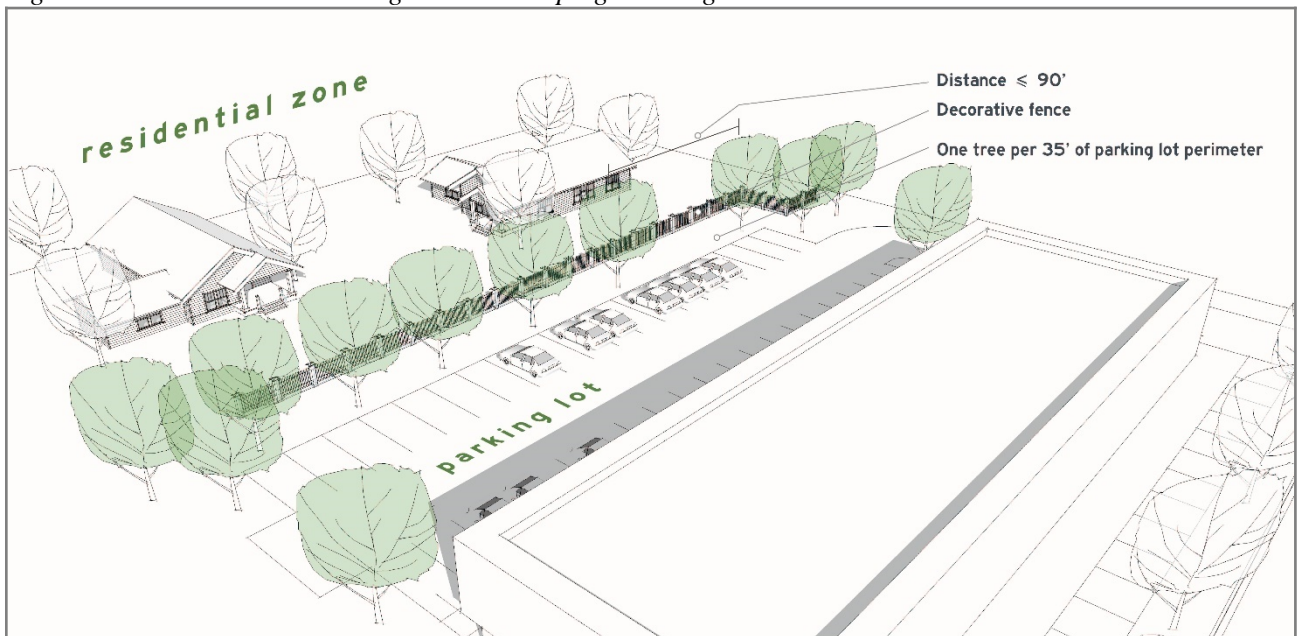


Figure 423-2: Perimeter Parking Lot Landscaping Abutting Residential



(F) *Bufferyard.*

**Hobart - Land Usage**

(1) The bufferyard and screening regulations of this section apply in OS, PBP, M and PUD zoning districts. The regulations are intended to lessen the potential conflicts between the possible uses in one zoning district and those uses in adjacent districts. Screening minimizes the friction between incompatible land uses and improves the aesthetic and functional quality of new development through the use of setbacks and landscaping. The potential degree of conflict between the uses determines the extent of the buffer required.

(2) The bufferyard standards only apply along the property lines where two dissimilar uses or zoning classifications meet. The required buffer yards shall be installed despite the presence of streets, alleys, and other features. Existing mature vegetation (such as streams and fence rows) may be cited towards required buffering, including:

(a) Trees, shrubs and emergent vegetation specifically selected for wetland or pond perimeters should be specified to enhance if not effectively screen detention areas.

(b) All required bufferyards shall be provided entirely on the subject property and shall be in addition to applicable minimum setbacks of the subject zoning district.

(c) All landscape material must be properly maintained and kept in a neat and orderly appearance, free from all debris and refuse. Landscape material are intended to grow, spread and mature over time. Pruning, limbing-up, topping and other growth-inhibiting measures may only be used to ensure the public safety and/or health of the vegetation.

(3) Screening may include landscaping, walls, fences, hedges, berms, and existing vegetation. The buffer width, height, and appropriate screening for similar and dissimilar uses and shall be in accordance with the applicable bufferyard regulations, as follows:

(a) *Bufferyard Type Requirement Chart*

EXISTING DEVELOPMENT LAND USE		NEW DEVELOPMENT ZONING DISTRICT			
		OS	PBP	M	PUD
	Residential (R)	2	3	3	Same buffer/screening as applies to OS, PBP or M use type as applicable
	Office-Service (OS)	N/A	3	3	
	Neighborhood and Central Business (B-1 and B-2)	2	3	3	
	Highway Business (B-3)	2	3	2	
	Planned Business Park (PBP)	2	N/A	1	
	Light Manufacturing (M-1)	3	1	N/A	
	Heavy Manufacturing (M-2)	3	2	1	

(b) *Bufferyard Type Illustration:*

Figure 423-3: Bufferyard Types



(c) Bufferyard Type Requirement Table:

<b>Type 1</b>	Bufferyard Type 1 shall include a minimum buffer width of 10 feet in addition to the yard setback otherwise required by this Ordinance. One (1) broad-leaf deciduous canopy tree and one (1) evergreen tree shall be planted in the bufferyard for every 50 feet of boundary between the subject and adjoining properties. All evergreen trees shall be six feet (6') in height at the time of planting.
<b>Type 2</b>	Bufferyard Type 2 shall include a minimum buffer width of 20 feet in addition to the yard setback otherwise required by this Ordinance. One (1) broad-leaf deciduous canopy tree and two (2) evergreen trees shall be planted in the bufferyard for every 50 feet of boundary between the subject and adjoining properties. All evergreen trees shall be six feet (6') in height at the time of planting. One (1) shrub shall be planted for every ten feet (10') of continuous boundary. Shrubs may be clustered.
<b>Type 3</b>	Bufferyard Type 3 shall include a minimum buffer width of 25 feet in addition to the yard setback otherwise required by the City of Hobart Design Guidelines. Two (2) broad-leaf deciduous canopy trees and two (2) evergreen trees shall be planted parallel to the property line in the bufferyard for every 50 feet of boundary between the subject and adjoining properties. All evergreen trees shall be six feet (6') in height at the time of planting. Shrubs shall be planted along 50 percent (50%) of the boundary. The plantings shall be supplemented by an earthen berm a minimum of four feet (4') in height and a six-foot high opaque fence/wall of wood, masonry or stone so that the overall effect is a minimum height screen of eight feet (8'). A minimum of seventy-five percent (75%) of the plant material shall be located on the outside of the fence/wall. Landscaping may be used to mitigate breaks in the berm or fence.

(G) Screening.

## Hobart - Land Usage

(1) All ground and building-mounted mechanical and electrical equipment shall be screened from view. The screens and enclosures shall be treated as an integral element of the building's appearance. Landscaping may be used for this purpose.

(2) Roof-mounted equipment on exposed roofs shall be completely screened from view. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.

(3) All mechanical equipment shall be located a minimum of fifty feet (50') from the property line and shall not be located within a front or side setback.

(4) Utility substations shall be screened with a fence that is at least fifty percent (50%) opaque and at least six feet (6') in height, and the exterior wall of the fence shall be landscaped with a Type 1 Buffer yard comprised solely of evergreen species.

(5) All enclosure(s) for ground mechanical and service areas shall be accessed via an opaque gate. The fence may not be chain-link.

(6) All wall(s) for ground mechanical and service areas shall be equal to the height of the unit plus two feet (2').  
(Ord. 2016-44, § 15)

### (H) *Tree Preservation.*

(1) The landscape plan shall indicate the techniques that will be used during construction to preserve existing trees to be retained or relocated on site.

(2) The following tree protection measures shall be required on all sites:

(a) Prior to construction activities, a sturdy fence or barrier should be erected around designated trees for protection at a minimum distance of 1 linear foot for every inch of DBH.

(b) No machinery, tools, chemicals or temporary soil deposits may be permitted within this area.

(c) Tunneling shall be used for utility placement in all areas where trees are to be preserved. If trenches must be used, they should be planned for minimal root damage.

(d) Soil grading around preserved trees shall be avoided. A depth of no more than 6 inches of soil may be placed over tree roots within the protected area, nor shall soil be graded away.

### (I) *Exempt Tree List.*

**Zoning**

Ailanthus Altissima or Tree of Heaven.	<i>Ailanthus Altissima.</i>
Elm various.	<i>Ulmus sp.</i>
Black Locust.	<i>Robinia pseudoacacia.</i>
Black Pine or Austrian Pine.	<i>Pinus nigra.</i>
Box Elder.	<i>Acer negundo.</i>
Cottonwood.	<i>Populus deltoides.</i>
Mulberry.	<i>Norus rubra and Morus alba.</i>
Osage Orange or Hedgeapple.	<i>Maclura pomifera.</i>
Silver Maple Sumac.	<i>Acer saccharinum.</i>
Weeping Willow.	<i>Rhus typhina.</i>
Purple Plum.	<i>Salix alba.</i>
Sand Cherry.	<i>Prunus cerasifera.</i>
Nuisance tree, as defined within the ordinance.	

(Ord. 2002-10, §6)

(J) *Priority Tree List.*

Red Maple.	<i>Acer rubrum.</i>
Sugar Maple.	<i>Acer saccharum.</i>
Norway Maple.	<i>Acer plantanoides.</i>
Shagbark Hickory.	<i>Carya ovata.</i>
Hackberry.	<i>Celtis occidentalis.</i>
River Birch.	<i>Betula nigra.</i>
Beech various.	<i>Fagus sp.</i>
Ginkgo.	<i>Ginkgo biloba.</i>
Black Walnut.	<i>Juglans nigra.</i>
Sweet-gum.	<i>Liquidambar styraciflua.</i>
Tulip Poplar.	<i>Liriodendron tuhpifera.</i>
Ironwood.	<i>Ostryua virginiana.</i>
Spruce various.	<i>Picea sp.</i>
Eastern White Pine.	<i>Pinus strobus.</i>
Black Cherry.	<i>Prunus serotina.</i>
Oak various.	<i>Quercus sp.</i>
White Fir.	<i>Abies concolor.</i>

(Ord. 2002-10, §6)

(K) *Recommended Tree and Plant Species.*

(1) Trees and plant materials used to satisfy the landscape and bufferyard requirements of this ordinance shall be selected from the lists of recommended species below.

(2) Unless otherwise expressly stated in this ordinance or specified at the time of site plan approval, priority trees identified in HMC §154.423 (J) shall also be used to satisfy the landscaping requirements of this ordinance.

(a) Trees for Planting on Streets, Highways, and Parking Lots. Where D = Deciduous and E = Evergreen  
(generally with high canopies, shade producing, hardy)

Hobart - Land Usage

Botanic Name	Common Name	Type	Mature Height	Tree Category
Acer 'Freemanii'	Freeman Maple	D	50-60'	Shade
Acer rubrum	Red Maple	D	40-60'	Shade
Acer saccharum	Sugar Maple	D	50-70'	Shade
Gingko biloba (male only)	Gingko	D	40-60'	Shade
Gleditsia triacanthos inermis	Thornless Honeylocust	D	30-60'	Shade
Liquidamber styraciflua (Fruitless)	American Sweet Gum	D	40-60'	Shade
Pyrus calleryana 'Aristocrat'	Aristocrat Pear	D	35-45'	Shade
Quercus bicolor	Swamp White Oak	D	40-50'	Shade
Quercus robur	English Oak	D	50-70'	Shade
Taxodium distichum	Bald Cypress	D	50-100'	Shade
Tillia cordata 'Green Spire'	Little-Leaf Linden	D	40-50'	Shade

(b) Trees for Planting on Streets, Highways that Minimize Conflict with Overhead Utilities. Where D = Deciduous and E = Evergreen

Botanic Name	Common Name	Type	Mature Height	Tree Category
Crataegus crus-galli (Inermis)	Cockspur Hawthorn	D	15-25'	Ornamental
Malus 'Prairie Fire'	Prairie Fire Crabapple	D	15-25'	Ornamental
Syringa reticulata	Tree Lilac	D	20-30'	Ornamental

(c) Ornamental Trees for Use in Site Interior or Buffer. Where D = Deciduous and E = Evergreen

Botanic Name	Common Name	Type	Mature Height	Tree Category
Acer ginalla	Amur Maple	D	15-20'	Ornamental
Acer griseum	Paperbark Maple	D	20-30'	Ornamental
Acer palmatum	Japanese Maple	D	15-20'	Ornamental
Amelanchier canadensis	Juneberry	D	30-35'	Ornamental
Amelanchier grandiflora	Apple Serviceberry	D	25-30'	Ornamental
Betula nigra	River Birch	D	40-60'	Ornamental
Cercis canadensis	Eastern Redbud	D	20-30'	Ornamental
Cornus kousa	Japanese Dogwood	D	20-25'	Ornamental
Cotinus coggyria	Smoke Tree	D	15-20'	Ornamental
Magnolia soulangiana	Saucer Magnolia	D	15-20'	Ornamental
Magnolia stellate	Star Magnolia	D	10-15'	Ornamental
Salix matsudana 'Tortuosa'	Corkscrew Willow	D	25-30'	Ornamental

(d) Evergreen Trees for Use in Site Interior or Buffer. Where D = Deciduous and E = Evergreen

Botanic Name	Common Name	Type	Mature Height	Tree Category
Abies concolor	White Fir	E	30-50'	Evergreen
Picea abies	Norway Spruce	E	50-60'	Evergreen
Picea glauca densata	Black Hills Spruce	E	50-60'	Evergreen
Picea pungens 'Glauca'	Colorado Blue Spruce	E	60-75'	Evergreen
Pinus strobus	Eastern White Pine	E	50-100'	Evergreen



**Zoning**

(e) Small Shrubs Approved for Screens, Hedges, and Specimen Planting. Where D = Deciduous and E = Evergreen

<b>Botanic Name</b>	<b>Common Name</b>	<b>Type</b>	<b>Mature Height</b>
Aronia melanocarpa	Black Chokeberry	D	4-6'
Buxus microphylla 'Koreana'	Korean Boxwood	E	2-3'
Cotoneaster divaricate	Spreading Cotoneaster	D	5-6'
Euonymus fortune	Euononymous	E	4-6'
Hydrangea macrophylla 'Nikko Blue' spp.	Nikko blue Hydrangea	D	3-4'
Physocarpus opulifolius intermedius	Dwarf Ninebark	D	4-5'
Rhus aromatic	Fragment Sumac	D	4-6'
Symphoricarpos alba	White Snowberry	D	5-6'
Weigela florida	Flowing Weigela	D	4-5'

(f) Large Shrubs Approved for Screens, Hedges, and Specimen Planting. Where D = Deciduous and E = Evergreen

<b>Botanic Name</b>	<b>Common Name</b>	<b>Type</b>	<b>Mature Height</b>
Cornus alternifolia	Pagoda Dogwood	D	15-20'
Cornus sericea baileyi	Redtwig Dogwood	D	8-10'
Cotinus coggygia	Smoke Tree	D	8-10'
Cotoneaster acutifoliosus	Peking Cotoneaster	D	4-8'
Euonymus alatus 'compactus'	Burning Bush	D	7-10'
Forsythia intermedia Hybrids	Hybrid Forsythia	D	7-10'
Hamamelis virginiana	Common Witch Hazel	D	10-15'
Hydrangea arborescens 'Annabelle'	Annabelle Hydrangea	D	4-15'
Hydrangea paniculata 'Grandiflora'	Peegee Hydrangea	D	6-10'
Juniperus chinensis	Chinese Juniper	E	6-15'
Myrica pennsylvanica	Northern Bayberry	D	5-10'
Picea glauca 'Conica'	Dwarf Alberta Spruce	E	6-10'
Rhus typhina	Staghorn Sumac	D	8-12'
Sambucus Canadensis	American Elderberry	D	6-8'
Syringa vulgaris Hybrids	Hybrid French Lilac	D	8-12'
Taxus cuspidate 'Capitata'	Upright Japanese Yew	E	10-25'
Taxus 'Hicksii'	Hick's Yew	E	10-12'
Thuja occidentalis Hybrids	American Arborvitae	E	4-15'
Viburnum dentatum	Arrowwood Viburnum	D	10-15'
Viburnum prunifolium	Black Haw Viburnum	D	10-12'
Viburnum trilobum	American Cranberry Bush	D	8-12'

(g) Low Spreading Shrubs Approved for Borders, Parking Islands, and Groundcover. Where D = Deciduous and E = Evergreen

<b>Botanic Name</b>	<b>Common Name</b>	<b>Type</b>	<b>Mature Height</b>
Buxus sempervirens	Boxwood	E	2-3'

Hobart - Land Usage

Botanic Name	Common Name	Type	Mature Height
Cotoneaster apiculate	Cransberry Cotoneaster	D	2-3'
Cotoneaster horizontalis	Rockspray Cotoneaster	D	1-3'
Daphne burkwoodii	Burkwood Daphne	D	3-4'
Euonymus fortunei 'Sarcoxie'	Sarcoxie Euonymus	E	3-4'
Forsythia viridissima 'Bronxensis'	Dwarf Forsythia	D	1-2'
Hypericon patulum	St. John's Wort	D	2-3'
Juniperus (spreading varieties)	Juniper	E	1-3'
Philadelphus virginialis	Miniature Snowflake	D	2-3'
Picea abies 'Nidiformis'	Birdnest Spruce	E	2'
Rhus aromatic 'Gro-Low'	Low Grow Fragrant Sumac	D	1-2'
Ribes alpinum	Alpine Currant	D	3-5'
Spirea alba	Meadow Sweet Spirea	D	3-5'
Spirea bumalda	Spirea	D	2-3'
Syringa patula 'Miss Kim'	Dwarf Korean Lilac	D	3-5'
Taxus cupidata 'Nana'	Dwarf Japanese Yew	E	2-3'
Taxus media	Spreading Yew	E	2-4'
Thuja accidentalis 'Hetzii Midget'	Hetz Midget Arborvitae	E	2-3'

(h) Climbing Vegetation for Walls and Fences. Where D = Deciduous and E =

Evergreen

Botanic Name	Common Name	Type
Campsis radicans	Trumpetvine	D
Clematis jackmanii	Clematis Hybrids	D
Lonicera hechtii	Everblooming Honeysuckle	D
Parthenocissus quinquefolia	Virginia Creeper	D
Parthenocissus Triscuspidata	Boston Ivy	D

(Ord. 2016-40, § 3)

(L) *Variances.*

(1) Any variance from the requirements of this section may be requested from the Plan Commission for sites employing innovative landscaping treatments.

(2) The innovations are encouraged and shall be favorably considered and recommended by the Site Review Committee as a positive attribute in connection with such a request.

(Ord. 2002-10, § 6; Ord. 2019-17)

**§ 154.424 SITE REVIEW COMMITTEE.**

(A) A committee made up of the following individuals to review Board of Zoning Appeals and Plan Commission applications:

- (1) City Planner
- (2) City Engineer
- (3) Zoning Administrator
- (4) Plan Commission member (no more than two)
- (5) MS4 Coordinator
- (6) Parks and Recreation Director, or proxy
- (7) Planning Department Recording Secretary

(Ord. 2017-04, § 2)

(B) The Planning and Zoning Department Staff schedule meetings for the Site Review Committee (Committee). The Committee shall meet prior to the regular meeting of the Plan Commission and staff may recommend or update the Plan Commission on Site Review Committee findings, discussion, and recommendations.

(Ord. 2019-17)

***RENEWABLE ENERGY PROJECTS***

**§ 154.430 TITLE**

The title of this subchapter is “The City of Hobart Renewable Energy Ordinance,” and will be referred to herein as “this subchapter.” This subchapter consists of [§§154.430 through 154.439](#), inclusive.

(Ord. 2012-04)

**§ 154.431 PURPOSE**

This subchapter is established to set forth processes for permitting Renewable Energy to promote the health, safety, and general welfare of the citizens of Hobart, Indiana and comply with the regulations set forth in IC 36-7-2.

(Ord. 2012-04)

**§ 154.432 INTERPRETATION**

In interpreting and applying the provisions of this subchapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Where the provisions of this subchapter impose greater restriction than those of any statute, other ordinance or regulations, the provisions of this subchapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Subchapter, the provisions of such statute, other ordinance or regulation shall be controlling. (Ord. 2012-04)

### § 154.433 DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Subchapter. If not specifically defined in this Section or in Chapter 154 of the Hobart Municipal Code, terms used in this Subchapter shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Subchapter, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

**ACCESSORY USE.** A use clearly incidental or subordinate to the principle use of a lot or a building located on the same lot as the principle use.

**AGGREGATED PROJECT.** Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

**ARRAY (SOLAR).** Any number of solar photovoltaic modules or panels connected together to provide a single electrical output.

**BOARD OF ZONING APPEALS.** An officially constituted quasi-judicial body appointed by the City whose principle duties are to hear appeals from decisions of the Zoning Administrator and, where appropriate, grant variance from the strict application of this Subchapter.

**CITY.** City of Hobart, Indiana

**COMMERCIAL WECS.** A WECS of equal to or greater than 100 kW in total name plate generating capacity.

**COMPREHENSIVE PLAN.** Comprehensive plan means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the corporate boundaries of the city.

**CONDITIONAL USE.** A land use or development as is defined by the City of Hobart Zoning Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon the finding that: (1) certain conditions as detailed in the Zoning Ordinance exist, and (2) use or development conform to the comprehensive plan of the city and (3) is compatible with the existing neighborhood.

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**FALL ZONE.** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure.

**FEEDER LINE.** Power lines that transport electrical power from one or more wind turbines to the point of interconnection with a high voltage transmission line.

**GENERATOR NAMEPLATE CAPACITY.** The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to the generator.

**HIGH-VOLTAGE TRANSMISSION LINE.** A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.

**LARGE SOLAR ENERGY SYSTEM.** A solar farm, where the primary land use of the parcel is for a solar array. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have a Direct Current (DC) rated capacity greater than 100 kilowatts.

**METEOROLOGICAL TOWER.** For the purposes of this Subchapter, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Indiana Department of Transportation, or other similar applications to monitor weather conditions.

**MICRO-WECS.** Micro-WECS are WECS of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

**MODULE (SOLAR).** A number of individual solar cells connected together in an environmentally protected housing producing a standard output voltage and power. Multiple modules/panels can be assembled into an array for increased power and/or voltage.

**NATIVE PRAIRIE PLAN.** The plan shall address steps to be taken to identify native prairie within the project area, measures to avoid impacts to native prairie, including foundations, access roads, underground cable and transformers, shall not be placed in native prairie unless addressed in the prairie protection and management plan.

**NON-COMMERCIAL WECS.** A WECS of less than 100 kW and greater than 1 kW in total name plate generating Capacity.

**PHOTOVOLTAIC ARRAY.** A group of solar photovoltaic modules connected together to increase voltage and/or power to the level required for a given system.

**PHOTOVOLTAIC DEVICE.** A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

**POWER PURCHASE AGREEMENT.** A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

**PROJECT BOUNDARY/PROPERTY LINE.** The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, or other appropriate contractual relationship between the project developer and landowner.

**PUBLIC CONSERVATION LANDS.** Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

**RENEWABLE ENERGY.** Energy from sources that are not easily depleted such as moving water (hydro, tidal and wave power), biomass, geothermal energy, solar energy, wind energy, and energy from solid waste treatment plants.

**ROTOR DIAMETER (RD).** The diameter of the circle described by the moving rotor blades.

**SMALL SOLAR ENERGY SYSTEM.** A solar array that is an accessory use.

**SOLAR CELL.** The basic unit of a photovoltaic solar panel.

**SOLAR EASEMENT.** A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar sky space for the purpose of ensuring adequate exposure of a solar energy system.

**SOLAR ENERGY SYSTEM.** A set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar generated energy.

**SUBSTATIONS.** Any electrical facility designed to convert electricity produced by wind turbines to a voltage for interconnection with transmission lines.

**TOTAL HEIGHT.** The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

**TOTAL NAME PLATE CAPACITY.** The total of the maximum rated output of the electrical power production equipment for a WECS project.

**TOWER.** Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

**TOWER HEIGHT.** The total height of the WECS exclusive of the rotor blades.

**TRACKING SOLAR ARRAY.** A solar array that follows the path of the sun during the day to maximize the solar radiation it receives.

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**WECS - WIND ENERGY CONVERSION SYSTEM.** A device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy, including, but not limited to: power lines, transformers, substations, and meteorological towers. The energy may be used on-site or distributed into the electrical grid.

**WIND EASEMENT.** A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds.

**WIND TURBINE.** Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

**WINDMILL, FUNCTIONAL.** A structure utilizing wind power for the pumping of water for agricultural use on the parcel of property on which the windmill is located.

**WINDMILL, ORNAMENTAL.** A non-functional windmill used for decoration.

**ZONING ORDINANCE.** Chapter 154 of the Municipal Code of the City of Hobart, Indiana as amended from time to time.  
(Ord. 2012-04)

**§ 154.434 PERMITTED AND CONDITIONAL USES FOR WECS**

(A) WECS will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below (P=Permitted, CU=Conditional Use, NP=Not Permitted):

	<b>Micro-WECS</b>	<b>Non-Commercial &lt;100 kw</b>	<b>Commercial ≥ 100 kw</b>	<b>Meteorological Tower</b>
(1) A-1	P	CU	NP	CU
(2) R-1/2/3/4	CU	NP	NP	CU
(3) OS-1/2 & B-1/2	CU	NP	NP	CU
(4) B-3 & PBP	CU	NP	P	CU
(5) M-1	P	CU	NP	CU
(6) M-2	P	CU	CU	CU

(B) For R-1, R-2, R-3, and R-4; Site must be of three acres (3.0) or more and cannot be constructed unless a primary structure is already in existence.  
(Ord. 2012-04)

**§ 154.435 REGULATIONS FOR WECS**

All towers shall adhere to the setbacks established in the following table. Towers shall also comply with all other easements, building lines, and rights of way. If there is any conflict the more stringent standard shall take precedence.

(A) *Micro-WECS*

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(1) Distance from property line shall be at least the overall height of the tower and meet noise requirements, whichever is greater. Tower must also be at least the overall height of the tower away from all other access easements, conservation land, trails, and other similar access points traveled by humans.

(2) Dwelling(s)/primary structure other than project owners shall be at least twice the overall height of the tower and meet noise requirements, whichever is greater.

(3) Noise shall not to exceed 45 decibels at property line.

### (B) *Non-Commercial WECS < 100kW and Meteorological Towers*

(1) Distance from property line shall be at least the overall height of the tower and meet noise requirements, whichever is greater. Tower must also be at least the overall height of the tower away from all other access easements, conservation land, trails, and other similar access points traveled by humans.

(2) Dwelling(s)/primary structure other than project owners shall be at least 500 feet away from the tower and meet noise requirements, whichever is greater.

(3) Other WECS on the property will be set apart in a fashion so they do not negatively impact the other's efficiency. Final separation shall be determined by recommendation of the city engineer.

(4) Other WECS on the property will be set apart in a fashion so they do not negatively impact the others efficiency. Final separation shall be determined through site plan by recommendation of the city engineer.

(5) Noise shall not to exceed 50 decibels at property line during the day and 45 decibels from dusk until dawn

### (C) *Commercial WECS > 100kW*

(1) Distance from property line shall be at least the overall height of the tower and meet noise requirements, whichever is greater. Tower must also be at least the overall height of the tower away from all other access easements, conservation land, trails, and other similar access points traveled by humans.

(2) Dwelling(s)/primary structure other than project owners shall be at least 1000 feet away from the tower and meet noise requirements, whichever is greater.

(3) Other WECS on the property will be set apart in a fashion so they do not negatively impact the other's efficiency. Final separation shall be determined through site plan by recommendation of the city engineer.

(4) Noise shall not to exceed 50 decibels at property line during the day and 45 decibels from dusk until dawn.

### (D) *Additional Requirements for WECS*



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(1) Mining or excavation Operations – No turbines, towers or associated facilities in active mining or excavation operations.

(2) Aviation (public and private airports) – No turbines, towers or associated facilities shall be located so as to create an obstruction to navigable airspace of public and private airports in Hobart and Lake County. Setbacks or other limitations determined in accordance with Federal Aviation Administration (FAA) requirements.

(3) The setback for new dwellings shall be reciprocal in that no dwelling shall be constructed within the same setback as a new turbine would need to meet to an existing dwelling. However, if this standard cannot be met in the adjacent property a new primary structure can be erected if it meets all other set back requirements for the district. In this case the tower which would now be non-compliant will be considered compliant as long as it continued to meet the noise requirement and at least one times the overall tower height separation.

### (E) *Safety Design Standards*

(1) Engineering Certification. For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

(2) Clearance. Rotor blades or airfoils must maintain at least 30 feet of clearance between their lowest point and the ground.

(3) Warnings.

(a) For all Commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

(b) For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires. Aviation warning shall be painted on meteorological towers of less than 200 feet.

(c) All WECS and Meteorological towers more than 100 feet in overall height shall be required to have safety lighting as required by the FAA.

### (F) *Height Standards*

(1) Total height. Non-Commercial WECS shall have a total height of less than 200 feet.

(2) In those districts where meteorological towers are a permitted use, meteorological towers of less than 200 feet shall be exempt from Conditional Use process established for structures exceeding height requirements.

(3) Micro-WECS shall not exceed 40ft in overall height.

(4) All other tower heights shall be determined through site plan review and at the

discretion of Zoning Administrator based on analysis from the City Engineer.

*(G) Tower Configuration Standards*

(1) All WECS must use self-supporting towers. The base for such towers shall be designed to anchor and support the tower for the site and shall be guarded against unauthorized climbing. The first twelve (12) feet of the tower shall be unclimbable by design or be enclosed by a six (6) foot high unclimbable fence with a secured access.

(2) Meteorological towers may be guyed.

(3) Color and Finish. All wind turbines and towers that are part of a WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matt or non-reflective.

(4) Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided.

*(H) Other Applicable Standards*

(1) No signs, advertising devices, flag streamers, decorative items, or any graphic representation that may be construed as advertising may be placed on the turbines or towers. Except one sign shall be posted on each turbine or tower on the gate or entry point warning of potential electric shock or high voltage. Also, the manufacturer's or owner's company name and/or logo may be placed upon the nacelle, compartment containing the electrical generator, of the WECS.

(2) All feeder lines shall be buried. If not buried, must apply for a variance and shall follow the Variance procedures set forth in Chapter 154 of the Hobart Municipal Code.

(3) Waste Disposal. Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

(4) Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after 1 year without energy production, unless a plan is developed and submitted to the City of Hobart Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed entirely within 90 days of the discontinuation of use.

(5) All WECS projects shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The plan shall also address road maintenance during and after completion of the decommissioning. At the time of decommissioning the City Engineer may request a performance bond for the trucking

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route.

(6) Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

(7) Federal Aviation Administration. All WECS shall comply with FAA standards and permits.

(I) *Interference*

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS. The applicant shall notify all communication tower operators within two miles of the proposed WECS location upon application to the city for permits. No WECS shall be constructed so as to interfere with any transmissions.

(J) *Permit Application for WECS*

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Hobart Municipal Code, except where noted below. An application to the city for a permit under this section is not complete unless it contains the following:

- (1) The names and addresses of project applicant.
- (2) The names and contact information for project owner. If the project is owned by someone other than the underlying property owner, then both parties will need to be identified.
- (3) The legal description, address, general location of the project, and parcel number identification number.
- (4) A description of the project including: Number, type, total name plate generating capacity, tower height, rotor diameter, total height of all wind turbines, and means of interconnecting with the electrical grid.
- (5) Site layout, including the location of project area boundaries (purchased wind rights), property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
- (6) Documentation of land ownership or legal control of the property and current land use on the site and surrounding area.
- (7) Signed copy of the Power Purchase Agreement or documentation that the power will be utilized on-site.
- (8) The latitude and longitude of all WECS and Meteorological towers.
- (9) A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the Proposed WECS.

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(10) Location of wetlands, scenic, and natural areas within 1,320 feet of the proposed WECS. Or statement noting there not any within this distance.

(11) Copies of all permits or documentation that indicates compliance with all other applicable State and Federal Regulatory Standards:

- (a) Uniform Building Code, as amended.
- (b) The National Electrical Code, as amended.
- (c) Federal Aviation Administration (FAA), as amended.
- (d) Environmental Protection Agency (EPA), as amended.
- (e) Microwave Beam Path Study
- (f) Acoustical Analysis

(12) Location of all known Communications Towers within 2 miles of the proposed WECS.

(13) Location of all known public or private Airports or Heliports within 5 miles of the proposed WECS.

(14) Detailed Decommissioning Plan including how decommissioning costs would be covered. Applicant may be required to establish an escrow account to fund decommissioning costs.

(15) Description of potential impacts on nearby WECS and wind resources on adjacent properties. A Wake Loss Study may be required if the county determines the proposed project may have a significant impact on nearby WECS.

(16) Identification of Haul Routes to be utilized for material transportation and construction activities: State, Federal, County and/or Township roads. Must provide written documentation that all haul routes have been approved by each of the road authorities with jurisdiction.

(17) Locations and site plans for all temporary, non-residential construction sites and staging areas.  
(Ord. 2012-04)

**§ 154.436 PERMITTED AND CONDITIONAL USES FOR SOLAR ENERGY SYSTEMS**

Solar Farms will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below; (P=Permitted, CU=Conditional Use, NP=Not Permitted):

	<b>Large Solar Energy System</b>	<b>Accessory Solar Energy System</b>
(1) A-1	CU	P
(2) R-1/2/3/4	CU	P

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(3) OS-1/2 & B-1/2	CU	P
(4) B-3 & PBP	CU	P
(5) M-1/2	P	P

(A) *Standards for Solar Energy Systems, Accessory*

Solar energy systems are a permitted accessory use in all zoning districts, subject to the following standards:

(1) **Accessory Building Limit;** Solar systems, either roof or ground-mounted, do not count as an accessory building for the purpose of meeting limits on the number of accessory structures allowed per residential lot or the coverage limits, as set forth in the City of Hobart Zoning Ordinance.

(2) **Height.** Active solar systems are subject to the following height requirements:

(a) **Building- or roof- mounted solar systems** shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar systems other than building integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed.

(b) **Ground- or pole- mounted solar systems** shall not exceed 15 feet in height when oriented at maximum tilt.

(3) **Location within Lot.** Solar systems must meet the accessory structure setback for the zoning district.

(a) **Roof-mounted Solar Systems.** In addition to the building setback, the collector surface and mounting devices for roof-mounted solar systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least 2 feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

(b) **Ground-mounted Solar Systems.** Ground-mounted solar energy systems may not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.

(c) **Large Ground-mounted Systems.** Ground-mounted solar systems that result in the creation of impervious surface, must comply with the city's Storm Water Permit requirements.

(4) **Maximum Coverage.** Roof or building mounted solar systems, excluding building-integrated systems, shall not cover more than 80% of the south-facing or flat roof upon which the panels are mounted. The total collector surface area of pole or ground mount systems in non-agricultural district shall not exceed one percent of the lot area.

(5) **Approved Solar Components.** Electric solar system components must have an

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Underwriters Laboratory (UL) listing.

(6) Compliance with State Electric Code. All photovoltaic systems shall comply with the City's Electric Code.

(7) Utility Notification. No grid-intertie photovoltaic system shall be installed until evidence has been given to the Department that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

(8) Glare to adjacent uses shall be kept to a minimum. A statement from the manufacturer/engineer stating that the solar panels pose to glare threat is required with submittal for land use approval.

(9) If the solar panels are unused for a period of 6 months or are in a state of disrepair, they shall either be brought to normal working standards or shall be removed by the current property owner.

### *(B) Standards for large solar farms*

(1) Solar farms are the primary land use for the parcel on which the array is located and are distinguished from solar arrays that are a secondary or accessory use. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have a Direct Current (DC) rated capacity greater than 100 kilowatts.

(2) Storm water Management and Erosion and Sediment Control shall meet the requirements of the City's Storm water Permit requirements.

(3) Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.

(4) Other standards and codes. All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, and the National Electric Code, as amended.

(5) Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground.

### *(C) Permit application for large solar energy systems*

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Hobart Municipal Code, except where noted below. An application to the city for a permit under this section is not complete unless it contains the following:

(1) A site plan of existing conditions showing the following:

(a) Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of the adjacent property owners and current use/zoning of those

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properties.

(b) Existing public and private roads, showing widths of the roads and any associated easements.

(c) Location and size of any abandoned wells, sewage treatment systems and dumps.

(d) Existing buildings and any impervious surface.

(e) Topography at 2' intervals and source of contour interval. A contour map of the surrounding properties may also be required.

(f) Existing vegetation (list type and percent of coverage; i.e. grassland, plowed field, wooded areas, etc.)

(g) Waterways, watercourses, lakes and public water wetlands.

(h) Delineated wetland boundaries.

(i) The 100-year flood elevation and Regulatory Flood Protection Elevation, if available.

(j) Floodway, flood fringe, and/or general flood plain district boundary, if applicable.

(k) Mapped soils according to the Lake County Soil Survey.

(l) Surface water drainage patterns.

(m) Letter from IDNR stating the impacts to existing wildlife and migratory animals is acceptable.

(2) Site Plan of Proposed Conditions.

(a) Location, spacing, and number of solar panels.

(b) Location and construction materials of access roads.

(c) Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.

(d) New electrical equipment other than at the existing building or substation that is the connection point for the solar farm.

(e) Proposed erosion and sediment control measures.

(f) Proposed storm water management measures.

(g) Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any).

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(3) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;

(4) Report from manufacturer or qualified firm stating Solar Panels will not have an adverse impact for passersby due to glare.

(5) A description of the method of connecting the array to a building or substation.

(6) A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.

(7) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet all local, state, and federal requirements. The Planning Department may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

(Ord. 2012-04)

### **§ 154.437 PROCEDURES FOR MULTIPLE WECS SITES AND LARGE SOLAR ENERGY SYSTEMS**

#### *(A) Avoidance and Mitigation of Damages to Public Infrastructure*

(1) Identify all public roads to be used for the purpose of transporting WECS, substation parts, materials, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

(2) Contact the road authority for road closures, road signage removals, road signage re-locating, road signage restoring, moving permits, culverts, access/driveway permits, tile outlet permits, widening road intersections, standard utility permits and any other road activities that may require permits.

(3) Contact the City of Hobart prior to any road closures for the re-routing of emergency vehicles during the closure.

(4) Contact the road authority to conduct an inspection of the road conditions of the haul routes prior to and after construction.

(5) Provide a Performance Bond to be held by the Clerk-Treasurer until the City and/or County road authority(ies) have provided the Zoning Administrator with a written release that all haul routes within their jurisdiction in the city and/or county have been returned to pre-construction condition.

(6) Drainage System. The Applicant shall be responsible for immediate repair of damage to public and private drainage systems stemming from construction, operation,



maintenance, or decommissioning.  
(Ord. 2012-04)

**§ 154.438 PRE-CONSTRUCTION MEETING**

Applicant will conduct a Pre-Construction meeting prior to construction commencement with a written notice sent the following individuals a minimum of one week prior to said meeting:

City of Hobart City Engineer  
City of Hobart Building Official  
City of Hobart Zoning Administrator

Additional representatives as requested by any of the three above, including, but not limited to:

INDOT  
County Highway Engineer  
IDNR  
IDEM  
ACOE

(Ord. 2012-04)

**§ 154.439 ENFORCEMENT, VIOLATIONS, REMEDIES, PENALTIES AND FEES.**

(A) The fees for a zoning certificate, variance, amendment, or conditional use permit, shall be established by the Board. The Board may review and revise the fee schedule periodically. The Zoning Administrator shall issue the Zoning Certificate only after the fee has been paid and a determination has been made that the building plans, together with the application comply with the terms of this Subchapter. Any person filing a petition for an amendment to this Subchapter or requesting a variance shall pay the prescribed fees according to the schedule established by the Board before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

(B) Municipal corporations and governmental agencies shall be exempt from the fee requirements as prescribed by this Subchapter.

(C) The City may enforce the provisions of this subchapter by any remedy afforded under the Zoning Ordinance, or the laws of the State of Indiana.

(Ord. 2012-04)

***NON-CONFORMING USES AND NON-CONFORMING BUILDINGS***

**§ 154.460 PURPOSE.**

(A) The purpose of this subchapter is to describe non-conforming uses and non-conforming

buildings and the conditions that apply to their termination and removal, additions and enlargements, repairs and maintenance, restoration and repair after damage or destruction and to their continuation of use.

(B) Within the districts established by this chapter or by amendments which may later be adopted, there exists; lots; structures; uses of land and structures; and, characteristics of use, which were lawful before this chapter was passed or amended, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent to permit these non-conformities to continue until they are removed. It is further the intent of this chapter that non-conformities, except as otherwise noted or required by law, shall not be made more non-conforming, nor be used as the grounds for adding other structures or uses prohibited elsewhere in the district.

(Prior Code, § 24-199) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.461 INCOMPATIBILITY OF NON-CONFORMING USES.**

Non-conforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of a structure and land in combination, shall not be extended or enlarged after the passage of this chapter if the extension or enlargement makes the non-conforming building or use more non-conforming. In addition, no additional signs intended to be seen from off the premises or additional uses of a nature which would be prohibited generally in the district involved, shall be permitted.

(Prior Code, § 24-200) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.462 AVOIDANCE OF UNDUE HARDSHIP.**

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of a building on which the actual and physical construction was lawfully begun prior to the enactment of this chapter and upon which actual physical building construction has been carried on diligently. Actual physical construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, the excavation or demolition, or removal shall be deemed to be actual construction; provided, that the work shall be carried on diligently.

(Prior Code, § 24-201) (Ord. 97-15; Ord. 2001-41)

#### **§ 154.463 SINGLE NON-CONFORMING LOTS OF RECORD.**

In any district in which single-family dwellings are permitted, a single-family dwelling may be constructed on a non-conforming lot of record notwithstanding limitations imposed by other provisions of this chapter. The lot must be in separate ownership and not be of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable within the district; provided that, yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations of the district in which the lot is located. Variance of yard requirements shall be obtained only through action of the Advisory Board of Zoning Appeals.

(Prior Code, § 24-202) (Ord. 97-15; Ord. 2001-41)

**§ 154.464 NON-CONFORMING LOTS OF RECORD IN COMBINATION.**

If 2 or more lots or combinations of lots and portions of lots with contiguous frontage in single ownership are of record at the time of enactment of this chapter or amendments thereto, and if all or parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

(Prior Code, § 24-203) (Ord. 97-15; Ord. 2001-41)

**§ 154.465 NON-CONFORMING USES OF LAND.**

Where, at the time of adoption of this chapter, lawful uses of land exist which would not be permitted by the regulations imposed by this chapter, the uses may be continued so long as they remain otherwise lawful; provided:

(A) No such non-conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter, except as may be required by law.

(B) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this chapter, except as may be required by law.

(C) If any such non-conforming uses of land are discontinued or abandoned for more than 1 year (except when government action impedes access to the premises), any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located.

(D) No additional structure which does not conform to the requirements of this chapter shall be erected in connection with the non-conforming use of land.

(Prior Code, § 24-204) (Ord. 97-15; Ord. 2001-41)

**§ 154.466 NON-CONFORMING STRUCTURES.**

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not now be built under the terms of this chapter by reasons of restrictions on area, lot coverage, height, yards, its location on the lot, bulk or other requirements concerning the structure, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, except as required by law, but any structure may be altered to decrease its non-conformity.

(B) Should any non-conforming structure or non-conforming portion of a structure be destroyed by any means to the extent that 50% of the fair market value of the building immediately prior to the damage, it shall not be reconstructed, except in conformity with the provisions of this chapter.

(C) Should the structure be moved for any reason for any distance whatever, it shall therefore conform to the regulations for the district in which it is located after it is moved.  
(Prior Code, § 24-205) (Ord. 97-15; Ord. 2001-41)

**§ 154.467 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION.**

If a lawful use involving individual structures, or if a structure and land in combination exists at the effective date of adoption or amendment of this chapter that would not now be allowed in the district under the terms of this chapter, this lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, moved, constructed, reconstructed, or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located, or except as required by law.

(B) A non-conforming use may be extended throughout any part of the building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside the building, except as required by law.

(C) Any structure, or structure and land in combination, in or on which a non-conforming use is substituted by a conforming use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.

(D) When a non-conforming use of a structure, or of a structure and land in combination is discontinued or abandoned for more than 1 year (except when government action impedes access to the premises), the structures or structures and land in combination, shall not thereafter be used except in conformance with the regulation of the district in which it is located.

(E) Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.  
(Prior Code, § 24-206) (Ord. 97-15; Ord. 2001-41)

**§ 154.468 REPAIRS AND MAINTENANCE.**

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not to exceed 10% of the current replacement cost of the non-conforming structure and market value of real estate, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with

protecting the public safety, upon order of the official. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

(Prior Code, § 24-207) (Ord. 97-15; Ord. 2001-41)

**§ 154.469 CHANGING THE USE OF A NON-CONFORMING USE.**

A non-conforming use as described in this chapter shall not be changed to another use unless the resultant use meets a use which is first permitted in the current zoning classification.

(Prior Code, § 24-208) (Ord. 97-15; Ord. 2001-41)

***ADMINISTRATION AND ENFORCEMENT***

**§ 154.480 PURPOSE.**

The purpose of this section is to describe the process required for obtaining improvement location permits and the conditions which have to be met in order to obtain them. It also deals with occupancy permits. The issuance of the permits is absolutely critical for the implementation of a zoning ordinance with respect to both temporary and permanent improvements to structures, buildings and land.

(Prior Code, § 24-209) (Ord. 97-15; Ord. 2001-41)

**§ 154.481 ADMINISTRATIVE OFFICIAL.**

The city hereby designates its city's Engineer as the Administrator for the purpose of implementing this chapter and has the principal responsibility for enforcing this chapter. The Administrator may be assisted by other persons as the City of Hobart may direct. It shall be the duty of the administrative official and the Plan Commission to enforce the provisions of this chapter in the manner and form and with the powers provided by the state.

(Prior Code, § 24-210) (Ord. 97-15; Ord. 2001-41)

**§ 154.482 APPLICABILITY.**

No conditional use approved hereunder, no change in a flood plain district may be made hereunder and no other change in the use of land (except an agricultural use) that involves a change in any structure on or in any land or in the condition of the land, may be made unless the Administrator on application, issues an improvement location permit authorizing the change. No building permit for a principal building or use shall be issued, unless the property for which the permit is being requested is a legal lot of record.

(Prior Code, § 24-211) (Ord. 96-15; Ord. 2001-41)

**§ 154.483 CERTIFICATE OF OCCUPANCY.**

## Hobart - Land Usage

(A) No application for an improvement location permit under [§ 154.482](#) may be considered unless the applicant has also applied for a certificate of occupancy.

(B) No land or structure with respect to which an improvement location permit has been issued under [§ 154.482](#) may be used for the purposes contemplated by the permit unless the Administrator, after the change is completed, issues a certificate of occupancy stating that the change complies with this chapter and with the permit.

(C) Within 10 days after the completion of the change authorized by the improvement location permit, the Administrator or his or her designee shall inspect the premises and, if the change conforms to this chapter and to the location improvement permit, and that a certificate of compliance, if required by [§ 154.483](#), has been obtained, he or she shall issue a certificate of occupancy.

(D) The Administrator or the Administrator's designee may issue a temporary or partial occupancy permit whenever, in the Administrator's discretion, or in the discretion of the designee he finds that:

(1) The construction of a project undertaken pursuant to proper building permit and improvement location permit (where same is applicable) is substantially complete but for minor or incidental items of work;

(2) An undue hardship to the owner of the property subject to said permits would likely result from being denied the use or occupancy of the project pending the completion of such items; and

(3) There is no risk to the health and safety of the occupiers of the project or the public by allowing temporary or partial use or occupancy until said incomplete items of work are completed.

(4) The fee provided for in sub-section (F) has been paid.  
(Ord. 2013-06, § 1)

(E) The Administrator or the Administrator's designee shall obtain evidence of the cost of the work remaining incomplete at the time of request for issuance of a temporary or partial occupancy permit, and shall require the owner or requesting party to post security for the payment for completion of the work in the amount of One Hundred Ten percent (110%) of the amount determined by the Administrator or the Administrator's designee for the cost of the work remaining incomplete. All work shall be completed by a date fixed by the Administrator or the Administrator's designee and stated in the temporary or partial occupancy permit. In the event that the work is not completed by said date, the Administrator may apply such security to the cost of completing the work, or withdraw the temporary or permanent occupancy permit, and order the owner and occupiers of the property to vacate same.  
(Ord. 2013-06, § 1)

(F) There is established a fee for the issuance of a temporary or partial occupancy permit hereunder, to be paid by the owner or applicant, and collected by the Clerk-Treasurer, in the amount set out in the current fee provisions of the Municipal Code.  
(Ord. 2013-06, § 1)

(Prior Code, § 24-212) (Ord. 97-15; Ord. 2001-41; Ord. 2013-06, § 1)

**§ 154.484 SITE PLAN AND CONSTRUCTION DRAWINGS.**

(A) In addition to all other applications, information and permits from all other governmental agencies, a person who applies for an improvement location permit under [§ 154.482](#) must furnish the Administrator with plans drawn to scale showing the following:

- (1) The location and legal description of the land involved;
- (2) The location and size of all buildings and structures already on the land and those to be erected, including parking, signage, landscaping and screening;
- (3) The size of all entrances to and exits from the land, including all adjacent streets and highways;
- (4) Detailed drawings showing all construction and materials; and
- (5) Elevation of all buildings to be constructed.

(B) As a condition to issuing a permit, the Administrator may require changes to the landscape plan upon recommendation of the Plan Commission, the relocation of any structures or buildings, or of any entrance or exit, or the inclusion of entrances or exits not shown on the plan, or the deletion of any entrance or exit, if the requirement is necessary in the interest of the public welfare or to an appropriate balancing of the interests of the persons in the district and vicinity involved.

(Prior Code, § 24-213) (Ord. 97-15; Ord. 2001-41)

**§ 154.485 INDUSTRIAL USES; CERTIFICATE OF COMPLIANCE.**

If an application for an improvement location permit relates to an industrial use, it must be accompanied by a certificate of compliance, certified by a registered professional engineer of the state, stating that the use will meet the performance standards of the district concerned. After 10 working days have elapsed during which the Administrator has not required additional information or objected in writing, he or she shall issue the permit.

(Prior Code, § 24-214) (Ord. 97-15; Ord. 2001-41)

**§ 154.486 RECORDS.**

(A) A record of each improvement location permit and each certificate of occupancy shall be kept by the Administrator.

(B) Upon request, a copy shall be furnished to any person having a proprietary or possessory interest in the premises involved.

(Prior Code, § 24-215) (Ord. 97-15; Ord. 2001-41)

**§ 154.487 ISSUANCE OR DENIAL.**

## Hobart - Land Usage

The Administrator shall accept only a complete application and issue the improvement location permit or deny the application together with a statement of reasons for the denial within a period of 8 working days following its submittal, except for the longer period of time required for industrial uses as provided in [§ 154.485](#).

(Prior Code, § 24-216) (Ord. 97-15; Ord. 2001-41)

### **§ 154.488 APPEALS.**

A decision of the Administrator under [§ 154.487](#) may be appealed to the Advisory Board of Zoning Appeals subject to the provisions of [§ 154.514](#).

(Prior Code, § 24-217) (Ord. 97-15; Ord. 2001-41)

### **§ 154.489 EXPIRATION.**

An improvement location permit shall be valid for a period of 1 year at which time it shall expire, unless work authorized by the improvement location permit is proceeding and inspections have been made by an official Hobart inspector, in which case it shall remain in full force and effect.

(Prior Code, § 24-218) (Ord. 97-15; Ord. 2001-41)

## ***BOARD OF ZONING APPEALS***

### **§ 154.500 PURPOSE.**

The purpose of this section is to explain the makeup of, jurisdiction of and procedures to be used by this Board. It should be noted that use variances are permitted by the state statute for Advisory Boards of Zoning Appeals, but the practice of permitting them is not recommended. Use variances have virtually the same affect as rezoning, but without benefit of Plan Commission review for their relationship to the overall fabric of the comprehensive plan and the potential for adverse consequences thereto. In most states such a delegation of de facto rezoning authority to Advisory Board of Zoning Appeals is avoided.

(Prior Code, § 24-219) (Ord. 97-15; Ord. 2001-41)

### **§ 154.501 CREATED.**

There is hereby reestablished the “Advisory Board of Zoning Appeals of the City of Hobart, Indiana”. The Advisory Board of Zoning Appeals shall be a continuation of the present Board of Zoning Appeals of the City of Hobart heretofore established under the advisory plan law, I.C. 36-7-4-900, as added by Acts 1981, Pub. Law No. 309, § 23.

(Prior Code, § 24-220) (Ord. 97-15; Ord. 2001-41)

### **§ 154.502 MEMBERSHIP.**

The Advisory Board of Zoning Appeals shall consist of and continue as a 5 member board,



appointed as follows:

(A) Four citizen members appointed by the Common Council of the City of Hobart, of whom 1 must be a member of the Advisory Plan Commission and 3 must not be members of the Advisory Plan Commission; and

(B) One citizen member appointed by the Advisory Plan Commission who must be a member of the Advisory Plan Commission other than the member appointed by the Common Council of the City of Hobart.

(Prior Code, § 24-221) (Ord. 97-15; Ord. 2001-41)

**§ 154.503 TERMS OF OFFICE.**

Following adoption of this chapter, each of the above members shall be re-appointed for the balance of the term being served on the present Advisory Board of Zoning Appeals of the City of Hobart. Thereafter, each member, except those appointed from the Advisory Plan Commission shall be for a term of 4 years. The members appointed from the Advisory Plan Commission shall be for a term of 1 year. Each term shall expire on the first Monday of the year of termination.

(Prior Code, § 24-222) (Ord. 97-15; Ord. 2001-41)

**§ 154.504 QUORUM.**

The presence of 3 members of the Board shall constitute a quorum. No action of the Board is official, however, unless authorized by a majority of the constituted Board.

(Prior Code, § 24-223) (Ord. 97-15; Ord. 2001-41)

**§ 154.505 TERRITORIAL JURISDICTION.**

The Advisory Board of Zoning Appeals shall have jurisdiction over all the land subject to the zoning ordinance.

(Prior Code, § 24-224) (Ord. 97-15; Ord. 2001-41)

**§ 154.506 SUBJECT MATTER JURISDICTION.**

The Advisory Board of Zoning Appeals shall have exclusive jurisdiction for variance under the statute and this chapter, except it shall have no jurisdiction to grant a variance from a use district or classification; conditional uses; and 3 appeals, as provided by statute, and including requirements for procurement of improvement location or occupancy permits or any ordinance adopted under I.C. 36-7-4 or any prior zoning statute, and any other appeals authorized by statute.

(Prior Code, § 24-225) (Ord. 97-15; Ord. 2001-41)

**§ 154.507 STAFF.**

The staff of the Advisory Board of Zoning Appeals shall consist of the Administrator as defined in this chapter and such other persons employed by the City of Hobart as may from time to time be assigned to assist him or her and the Advisory Board of Zoning Appeals.

(Prior Code, § 24-226) (Ord. 97-15; Ord. 2001-41)

**§ 154.508 RULES AND BY-LAWS.**

(A) The Advisory Board of Zoning Appeals shall have sole authority to adopt any and all rules under I.C. 36-7-4-916 and any and all by-laws concerning organization, selection of officers, forms for applications, filing requirements, other than as to place of filing, as herein provided, for, procedures, notices for and conduct of meetings.

(B) Upon adoption of such rules and by-laws, they shall be applicable to the Advisory Board of Zoning Appeals.

(Prior Code, § 24-227) (Ord. 97-15; Ord. 2001-41)

**§ 154.509 FACILITIES AND FUNDING.**

The City of Hobart shall provide suitable facilities for the holding of Advisory Board of Zoning Appeals hearings and the storage of its recorded documents and accounts, and in its annual budget to provide sufficient funds for the functioning of the Board and staff.

(Prior Code, § 24-228) (Ord. 97-15; Ord. 2001-41)

**§ 154.510 FILING.**

All applications for variances, conditional uses, and requests for appeal shall be filed by the applicant with the staff of the Advisory Board of Zoning Appeals.

(Prior Code, § 24-229) (Ord. 97-15; Ord. 2001-41)

**§ 154.511 HEARINGS.**

All hearings required for variances, conditional uses, and appeals shall be by the Advisory Board of Zoning Appeals. As per [§ 154.507](#), procedures for public notice setting forth time and place for all hearings by the Advisory Board of Zoning Appeals shall be established by the Advisory Board of Zoning Appeals.

(Prior Code, § 24-230) (Ord. 97-15; Ord. 2001-41)

**§ 154.512 CONDITIONAL USES.**

In making its determination to grant or deny a request for a conditional use, the Advisory Board of Zoning Appeals shall take into consideration all of the following factors.

(A) There shall be no classes of cases or applications, nor any particular situation in which this chapter authorizes either special uses, special exceptions or contingent uses.

(B) The Advisory Board of Zoning Appeals may approve a conditional use in a district if, after a hearing under [§ 154.511](#), it makes a finding of fact in writing, that:

(1) The requested conditional use is a listed conditional use in the district in which it is

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proposed to be located;

(2) The requirements and development standards of the district in which the requested conditional use is proposed to be located will be met; and

(3) Granting the conditional use will not subvert the general purposes served by this chapter and will not, because of traffic generation, placement of outdoor lighting, noise production or hours of operation, materially or permanently injure other property or uses in the same zoning district and vicinity.

(C) The Advisory Board may impose such reasonable conditions upon its approval as it deems necessary to find that division (B)(3) above will be served.

(D) The Advisory Board may permit or require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel as specified under I.C. 36-7-4-921.

(E) The approval of a conditional use under division (B) above is unnecessary for a use that was listed as a conditional use in the district in which it is requested if that use existed on the date of adoption or amendment of this chapter. However, this shall not authorize the expansion of such use if it involves the enlargement of a building, structure or land area.

(F) A conditional use approved by the Advisory Board may not be expanded, extended or enlarged unless re-approved by the Advisory Board under the provisions set forth in this chapter for approving a conditional use.

(G) A conditional use, approved under division (B) above or authorized by division (E) above ceases to be authorized and is void if that use is not established within a 12-month period of the date the conditional use was approved, or if that conditional use is discontinued at that site for a 12-month period during which time it is not succeeded by the same specifically approved conditional use.

(H) A conditional use may be terminated by the Advisory Board of Zoning Appeals, upon filing of an application by an interested person or the Administrator and, upon a finding at a public hearing, with notice to the property owner, that the terms of this chapter or conditions of approval or commitments have not been complied with.

(I) For a conditional use to be eligible for a public hearing by the Advisory Board under this section, an applicant must first receive a determination from the Administrator that a conditional use is required for the intended use or for the expansion, extension or enlargement of a use under division (F) above. The Administrator shall file a report of determination (in a form prescribed by the Advisory Board) with the Plan Commission which body shall determine how the granting of a conditional use would affect the purposes served by this chapter in furtherance of the comprehensive plan. Within 30 days of the date on which it received the application, the Commission shall report its determination to the Advisory Board for action by it as authorized by division (B) above. If the Advisory Board grants the conditional use, it shall direct the applicant to apply for an improvement location permit under [§ 154.482](#). If the application complies with this chapter and with all other applicable codes and ordinances, the Administrator shall issue the improvement location permit for the approved conditional use.  
(Prior Code, § 24-231) (Ord. 97-15; Ord. 2001-41)

**§ 154.513 VARIANCES.**

In making its determination to grant or deny a request for a variance, the Advisory Board of Zoning Appeals shall take into consideration all of the following factors.

(A) The Advisory Board may grant a variance from the development standards (such as height, bulk and area) of the zoning ordinance if, after a public hearing, it makes findings of fact in writing, that:

(1) The Advisory Plan Commission has determined that the variance is not for a use variance, i.e. a variance from a use district or classification per [§ 154.506](#).

(2) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

(3) (a) The strict application of the terms of this chapter:

1. Is being applied to some condition peculiar to the property involved that is not common to other properties in the same zoning district; and

2. Will result in an unusual and unnecessary hardship.

(b) The situation shall not be solely self-imposed, nor be based on a perceived reduction of or restriction on economic gain.

(B) The Advisory Board may permit or require the owner of a parcel to make written commitment concerning the use or development of that parcel or may impose conditions upon that grant of variance.

(C) The variance granted by the Advisory Board shall run with the land until such time as:

(1) The use of the variance ends; and/or

(2) The property conforms with the chapter as written.

(D) Where the owner has failed to comply with any condition and/or with any commitment permitted or required by the grant of the variance, the Advisory Board may authorize any action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this chapter in the same manner as if the variance had not been granted.

(Prior Code, § 24-232) (Ord. 97-15; Ord. 2001-41)

**§ 154.514 APPEALS.**

(A) A decision of the Administrator enforcing this chapter may be appealed to the Advisory Board of Zoning Appeals by any person who is adversely affected by the decision. On an appeal, the Advisory Board of Zoning Appeals may make any decision that the Administrator might have made.

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(B) (1) All appeals from a decision of the Advisory Board of Zoning Appeals shall be made pursuant to I.C. 36-7-4-1001 through 36-7-4-1020.

(2) The person aggrieved by a decision of the Board of Zoning Appeals shall present the petition provided for in I.C. 36-7-4-1003 to the Court within 30 days after the entry of the decision of the Board of Zoning Appeals.

(Prior Code, § 24-233) (Ord. 97-15; Ord. 2001-41)

***SCHEDULE OF FEES***

**§ 154.530 PURPOSE.**

The purpose of this section is to describe the method by which fees, charges and expenses are established for all the actions contemplated in this chapter, and to identify the responsibility for their collection and maintenance.

(Prior Code, § 24-234) (Ord. 97-15; Ord. 2001-41)

**§ 154.531 ESTABLISHMENT.**

(A) The Common Council of the City shall establish a schedule of fees, charges and expenses and a collection procedure for applications or requests for the following activities: location improvement permits, certificates of occupancy, certificates of compliance, rezoning, for variances, conditional uses, for appeal from a decision of the Administrator, special meeting of the Board of Zoning Appeals or Plan commission, annexation, amendment to the Municipal Code or Comprehensive Plan, zoning compliance letter, amendment to the City zoning map, zoning for planned unit development (PUD), amendment of PUD, PUD subdivision replat, vacation or amendment, subdivision replat, vacation or amendment, and site plan review.

(Ord. 2011-38, § 2)

(B) Further, the city shall establish the method of collection, receipt and accountability.

(C) *Zoning and Planning Schedule of Fees.* The following fees shall apply to each request, application or petition for the actions listed below:

<b><i>Board of Zoning Appeals Matters:</i></b>	
Variance from Development Standards	\$ 100.00
Variance of Use	\$ 100.00
Conditional Use	\$ 100.00
Appeal from decision of the Administrator	\$ 100.00
Special meeting of the Board of Zoning Appeals	\$ 500.00
Late fee: Twice the amount of the established fee when the application, petition or request is submitted late under the laws of the State of Indiana or under the Ordinance or Rules of the City of Hobart.	
<b><i>Plan Commission Matters</i></b>	
Amendment to the City Zoning Map:	
Residential or Agricultural	\$ 100.00 plus \$ 5.00 per acre or fraction thereof
Commercial or Industrial	\$ 200.00 plus \$ 5.00 per acre or fraction thereof
Zoning for planned unit development (PUD)	\$ 500.00 plus \$10.00 per acre or fraction thereof
Amendment of PUD	\$ 100.00

**Hobart - Land Usage**

PUD Subdivision	\$ 250.00 plus \$ 5.00 per lot in excess of three (3) lots
PUD Subdivision replat, vacation or amendment	\$ 100.00
Subdivision	\$ 250.00 plus \$ 5.00 per lot in excess of three (3) lots
Subdivision replat, vacation or amendment	\$ 100.00
Special meeting of the Plan Commission	\$ 500.00
Site Plan Review:	
Minor	\$ 50.00
Major	\$ 150.00
Major with Reimbursement Agreement	\$ 150.00 plus costs stated in Reimbursement Agreement
Late fee: Twice the amount of the established fee when the application, petition or request is submitted late under the laws of the State of Indiana or under the Ordinance or Rules of the City of Hobart.	
<i>Administrative Fees</i>	
Annexation	\$ 500.00 plus costs stated in Reimbursement Agreement
Amendment to Municipal Code or Comprehensive Plan	\$ 250.00 plus costs stated in Reimbursement Agreement
Zoning Compliance Letter	\$ 25.00
Preparation of Resolution of Common Council waiving non-compliance with filing of tax abatement submissions pursuant to I.C. §6-1.1-12.1-9.5(b)	\$ 600.00

(Ord. 2011-38, § 3, Ord. 2017-28, § 2; Ord. 2018-34)

(Prior Code, § 24-235) (Ord. 97-15; Ord. 2001-41; Ord. 2011-38; Ord. 2017-28, § 2)

**§ 154.532 PAYMENT PREREQUISITE TO ACTION ON APPLICATION OR APPEAL.**

Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

(Prior Code, § 24-236) (Ord. 97-15; Ord. 2001-41)

*AMENDMENTS*

**§ 154.550 PURPOSE.**

The purpose of this section is to establish the method by which amendments to the zoning ordinance are initiated, hearings held and resolved. For the purpose of providing for the public health, safety and general welfare, the city on recommendation of the Plan Commission, may from time to time amend the text of this chapter and/or the zoning map(s) incorporated by reference in this chapter.

(Prior Code, § 24-237) (Ord. 97-15; Ord. 2001-41)

**§ 154.551 WHO MAY INITIATE.**

(A) Amendments to this chapter may be proposed by the Common Council, or by petitions, duly signed and presented to the city’s Clerk-Treasurer, requesting an amendment, supplement or change of the regulations of this chapter by:

- (1) The Plan Commission, or

(2) The owners of 50% or more of the area involved in the petition.

(B) The term *AMENDMENT*, as used hereinafter in this subchapter, shall include the terms “supplement,” “change” or “repeal” as applied to the regulations of this chapter. (Prior Code, § 24-238) (Ord. 97-15; Ord. 2001-41)

**§ 154.552 REFERRAL TO THE PLAN COMMISSION.**

Any proposed ordinance for the amendment of this chapter not originating from petition of the Plan Commission shall be referred to the Plan Commission for consideration and report before any final action is taken by the Common Council. (Prior Code, § 24-239) (Ord. 97-15; Ord. 2001-41)

**§ 154.553 PUBLIC HEARING.**

(A) Before submission to the Common Council of a Plan Commission petition or report on a proposed ordinance referred to the Plan Commission for an amendment to this chapter, the Plan Commission shall hold a public hearing thereon.

(B) At least 10 days prior to the date set for the hearing, the Plan Commission shall publish in a newspaper of general circulation in the city, notice of the time and place of the hearing. (Prior Code, § 24-240) (Ord. 97-15; Ord. 2001-41)

**§ 154.554 MINIMUM SIZE OF PARCEL.**

(A) No amendment of the official zoning map shall be made with respect to any parcel of real estate unless the parcel has more than 160 feet of frontage and at least 20,000 square feet of area, except where in the event of an amendment the parcel would be in the same zoning district, or in a more restrictive zoning district, as an adjoining parcel of land.

(B) The following zoning districts, and no others, shall be deemed to be a “more restrictive zoning district” as the term is used above:

- (1) R-1, with respect to R-2, R-3 and R-4;
- (2) R-2, with respect to R-3 and R-4;
- (3) R-3, with respect to R-4;
- (4) B-1, with respect to B-2 and B-3;
- (5) B-2, with respect to B-3; and
- (6) M-1, with respect to M-2.

(Prior Code, § 24-241) (Ord. 97-15; Ord. 2001-41)

***HISTORIC PRESERVATION DISTRICT***

**§ 154.565 PURPOSE AND DEFINITIONS.**

(A) *Purpose of historic preservation and protection.* In order to promote the educational, cultural and general welfare of the citizens of Hobart, Indiana, and to insure the harmonious and orderly growth and development of the municipality; to maintain established residential neighborhoods in danger of having their distinctiveness destroyed; to enhance property values and attract new residents; to ensure the viability of the traditional downtown area and to enhance tourism within the City of Hobart, Indiana; it is deemed essential by the City of Hobart, Indiana, that qualities relating to its history and harmonious outward appearance of its structures be preserved. This purpose is advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and insurance of compatibility in regards to style, form, proportion, texture, and material between historic buildings and those of contemporary design. It is the intention of the City of Hobart, Indiana through this subchapter to preserve and protect historic and architecturally worthy buildings, structures, sites, monuments, streetscapes, and neighborhoods which impart a distinct aesthetic quality to the city and serve as visible reminders of its historic heritage.

(B) *Definitions.* The following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed. Words in the present tense include the future tense. The singular number includes the plural, and the plural, the singular. The word “shall” is always mandatory. The word “person” includes a firm, a partnership, a limited liability company, or a corporation, as well as an individual. Terms not defined in this section shall have the meanings customarily assigned to them.

***ALTERATION.*** A building material or color change in the external architectural features of any building, structure, or site within a historic district.

***CITY.*** The City of Hobart, Indiana.

***CLASSIFICATIONS.***

(a) *Outstanding.* The “O” classification means that the property has sufficient historic or architectural significance that is listed, or is eligible for individual listing, in the National Register of Historic Places. Outstanding resources can be of local, state, or national importance.

(b) *Notable.* A classification of “N” means that the property does not merit the outstanding rating, but it is still above average in its importance. A notable structure may be eligible for the National Register.

(c) *Contributing.* A “C” classification means the property is at least 40 years old, but does not meet the criteria for an “O” or “N” classification. Such resources are important to the density or continuity of the area’s historic fabric. Contributing structures can be listed in the National Register only as part of a historic district.

(d) *Non-contributing.* Property classified as “NC” is not included in an inventory



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unless it is located within the boundaries of a historic district. Such properties may be less than 50 years old, or they may be older structures that have been altered in such a way that they have lost their historic character, or they may be otherwise incompatible with their historic surroundings. These properties are not eligible for listing in the National Register.

**DEMOLITION.** The complete or substantial removal of any building, structure, or site located in a historic district.

**HISTORIC DISTRICT.** A single building, structure, object, or site or a concentration of buildings, structures, objects, spaces, or sites, the boundaries of which are described or delineated on a map approved in an ordinance adopted under this subchapter.

**INTERESTED PARTY.** One of the following:

- (a) The Mayor;
- (b) The City Council;
- (c) The City Plan Commission;
- (d) A neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a historic district designated by an ordinance adopted under this subchapter;
- (e) An owner or occupant of property located in a historic district established by an ordinance adopted under this subchapter;
- (f) Historic Landmarks Foundation of Indiana, Inc., or any of its successors; or
- (g) The state historic preservation officer designated under I.C. 14-3-3.4-10.

**PRESERVATION GUIDELINES.** Criteria, locally developed, which identify local design concerns in an effort to assist property owners in maintaining the character of the designated district or buildings during the process of rehabilitation or new construction.

**PRIMARY AREA.** The principal area of historic and/or architectural significance within a historic district as delineated on the map establishing the boundaries of the historic district.

**ROUTINE MAINTENANCE.** Work for which no certificate of appropriateness is required.

**SECONDARY AREA.** An area in a historic district delineated on the map establishing the boundaries of the historic district that is adjacent to a primary area and which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent, primary area.

**STREETSCAPE.** Appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving materials and color, the design of the street furniture (e.g., street lights, trash receptacles, benches, and the like) use of

plant materials such as trees and shrubs, and the setback, mass, and proportion of those buildings which enclose the street.

***VISUAL COMPATIBILITY.*** Those elements of design that meet the guidelines set out in [§ 154.572](#) of this subchapter.  
(Ord. 2007-31, § 1)

**§ 154.566 HISTORIC PRESERVATION COMMISSION ESTABLISHMENT AND ORGANIZATION.**

(A) *Creation.* There is hereby established the Historic Preservation Commission of the City of Hobart, Indiana (hereinafter referred to as the “Commission”).

(B) *Composition.* The Commission shall consist of not less than 3 nor more than 9 voting members. The voting members shall be appointed by the Mayor subject to the approval of the City Council and shall be residents of the city who are interested in the preservation and development of historic areas. The members of the Commission should include professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. Nonvoting, advisory member(s) may be appointed to the Commission by the Mayor with approval by the City Council. Commission members shall serve without compensation, except for reasonable expenses incurred in the performance of their duties.

(C) *Term.* Voting members shall serve for a term of 3 years; however, the initial terms of members shall be for 1 year, 2 years, and 3 years in order for the terms to be staggered. The term for nonvoting, advisory members shall be for 3 years. A vacancy shall be filled within 90 days for the duration of the term.

(D) *Commission Administrator.* A city administrator designated by the Mayor shall serve as the ex-officio Administrator of the Commission. The Administrator shall provide staff assistance to the Commission, act as the Commission’s secretary, and issue certificates of appropriateness as directed by the Commission.

(E) *Officers.* The Commission shall elect from its membership a Chairperson, Vice-Chairperson, and treasurer who shall serve for 1 year and who may be reelected.

(F) *Rules.* The Commission shall adopt rules consistent with this subchapter for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings.

(G) *Meetings.* Commission meetings must be open to the public in accordance with Indiana’s Open Door Law and a public record shall be kept of the Commission’s resolutions, proceedings, and actions. The Commission shall hold regular meetings, at least monthly, except when it has no business pending. Special meetings may be called in a manner determined by the Commission and its rules.  
(Ord. 2007-31, § 2)

**§ 154.567 POWERS AND DUTIES OF THE COMMISSION.**

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(A) The Commission shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in a historic district, which include but are not limited to viewsheds, landscapes, and streetscapes of historic importance. The Commission may not consider details of design, interior arrangements, or building features, if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district.

(B) The Commission shall conduct surveys and establish historic districts in accordance with the provisions of [§ 154.568](#) of this subchapter.

(C) The Commission may adopt preservation guidelines for architectural review. If adopted, preservation guidelines shall be published and made readily accessible to the general public.

(D) The Commission has the authority to receive funds in order to promote its stated purpose.

(E) The Commission shall promote public interest in historic preservation by initiating and carrying on a public relations and community education program.

(F) The Commission, through this subchapter, may:

(1) Acquire by purchase, gift, grant, bequest, devise, or lease any real or personal property, including easements, that is appropriate for carrying out the purposes of the Commission;

(2) Hold title to real and personal property; and

(3) Sell, lease, rent, or otherwise dispose of real and personal property at a public or private sale on the terms and conditions that the Commission considers best.

(G) The Commission shall establish procedures that the Commission must follow in acquiring and disposing of property.  
(Ord. 2007-31, § 3)

### **§ 154.568 HISTORIC DISTRICTS, CONSERVATION DISTRICTS AND GUIDELINES.**

(A) *Recommendations for establishment.* All recommendations for the establishment of a historic district shall be in the form of a written report and must be based on the criteria outlined in this section. A recommendation for establishing a historic district may be initiated from either of the following 2 sources.

(1) Based on its survey, the Commission may draw and submit historic district maps for City Council approval.

(2) Owners of property in fee simple wishing to establish a historic district which includes their property may petition the Commission to consider drawing and submitting a map or maps of the property to the City Council for its approval. The Commission may establish its rules criteria to be met before it considers a petition.

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(B) *Conservation Districts.* The Commission may recommend, and the City Council may provide that the establishment of a historic district shall occur in 2 phases. During the first phase, which continues for a period of 3 years from the date the ordinance is adopted, a certificate of appropriateness is required for the following activities: the demolition of any building; the moving of any building; and any new construction of a principal building or accessory building or structure subject to view from a public way.

(1) At the expiration of the initial 3 year period, the first phase of a conservation district continues and the second phase does not become effective if a majority of the property owners in the district object to the Commission, in writing, to the requirement that certificates of appropriateness be issued for the activities as stipulated in [§ 154.570](#) of this subchapter.

(2) The objections of a majority of the property owners must be received by the Commission not earlier than 180 days or later than 60 days before the third anniversary of the adoption of the subchapter.

(C) *Commission preparation of historic district maps.* In order to establish a historic district, the Commission shall first prepare a map describing the district in accordance with the following.

(1) The map shall be based on a survey conducted by the Commission which identifies historic buildings, structures, and sites located within the city.

(2) A district may be limited to the boundaries of a property containing a single building, structure, or site.

(3) The map may divide the district into primary and secondary areas as follows.

(a) *Primary area.* The principal area of historic and architectural significance.

(b) *Secondary area.* An area adjacent to a primary area which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent primary area.

(D) *Commission classification.*

(1) The Commission shall classify and designate on the map all buildings, structures, and sites within each historic district described on the map. Buildings, structures, and sites shall be classified as historic or non-historic. Historic buildings, structures, and sites must possess identified historic or architectural merit of a degree warranting their preservation. The Commission shall further classify and designate all buildings and structures within a proposed historic district as follows:

(a) Outstanding;

(b) Notable; or

(c) Contributing.

(2) Non-historic buildings, structures, and sites are those not classified on the map as

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historic. In lieu of other classifications, the Commission may devise its own system of further classification of historic buildings, structures, and sites.

(E) *City Council approval of maps of historic districts.* Before a historic district is established and the building classifications take effect, the map setting forth the district's boundaries and building classifications must be submitted to, and approved in an ordinance by, the City Council.

(F) *Recording the fact of designation.* The map establishing boundaries of a historic district may be recorded in the office of the Lake County Recorder.  
(Ord. 2007-31, § 4)

### § 154.569 INTERIM PROTECTION.

(A) When submitting a map to the City Council [§ 154.568](#) of this subchapter, the Commission may declare 1 or more buildings or structures that are classified and designated as historic on the map to be under interim protection.

(B) Not more than 2 working days after declaring a building, structure, or site to be under interim protection under this section, the Commission shall, by personal delivery or first class mail, provide the owner or occupant of the building, structure or site with a written notice of the declaration. The written notice must:

(1) Cite the authority of the Commission to put the building, structure, or site under interim protection under this section;

(2) Explain the effect of putting the building, structure, or site under interim protection; and

(3) Indicate that the interim protection is temporary.

(C) A building or structure put under interim protection under division (A) remains under interim protection until the map is:

(1) Submitted to; and

(2) Approved in an ordinance or rejected by the City Council.

(D) While a building, structure, or site is under interim protection under this section:

(1) The building, structure, or site may not be demolished or moved; and

(2) The exterior appearance of the building, structure, or site may not be conspicuously changed by:

(a) Addition;

(b) Reconstruction; or

(c) Alteration.

(E) The Commission may approve a certificate of appropriateness at any time during the period of interim protection, provided the proposed change meets the criteria for considering effect of actions on historic buildings in [§ 154.570\(D\)](#) of this subchapter and any proposed preservation guidelines prepared for the building, structure, or site, but the certificate of appropriateness shall have no effect, and no action may be taken pursuant thereto, unless the map including the building, structure or site is approved by the City Council.  
(Ord. 2007-31, § 5)

**§ 154.570 CERTIFICATES OF APPROPRIATENESS (COA).**

(A) *Certificates of appropriateness (COA) required.* A certificate of appropriateness must be issued by the Commission before a permit is issued for, or work is begun on, any of the following:

(1) Within all areas of a historic district:

- (a) The demolition of any building or structure;
- (b) The moving of any building or structure;

(c) A conspicuous change in the exterior appearance of any historic building or any part of or appurtenance to such a building, including walls, fences, light fixtures, steps, paving, and/or signs by additions, reconstruction, alteration, or maintenance. This includes exterior paint color change if cited by individual ordinance (see [§ 154.577](#)); or

(d) Any new construction of a principal building or accessory building or structure subject to view from a public way.

(2) Within a primary area of a historic district:

(a) A change, whether in height, size, material or location, in walls and fences, or the construction of walls and fences along public ways;

(b) A conspicuous change in the exterior appearance, including but not limited to exterior color change, of non-historic buildings subject to view from a public way by additions, reconstruction, alteration and/or maintenance.

(3) Within a conservation district:

- (a) The moving of any building or structure;
- (b) The demolition of any building or structure; or

(c) Any new construction of a principal building or accessory building or structure subject to view from a public way.

(B) *Application for certificates of appropriateness.* An application for a certificate of appropriateness shall be made in the office of the Commission or its designee on forms provided by that office. All applications shall be subject to the rules and requirements established by the

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Commission. Rules may include, but are not limited to, filing deadlines and application requirements such as sketches, drawings, photographs, descriptions, or other information which the Commission requires to make a decision.

(C) *Approval or denial of certificates of appropriateness.* The Commission may approve or deny certificates of appropriateness for any actions covered by this title. If an application for a certificate of appropriateness is approved by the Commission, or is not acted on by the Commission within 30 days after it is filed, a certificate of appropriateness shall be issued. The Commission may grant an extension of the 30-day limit if the applicant agrees to it. The Commission must report its findings and the reasons for its decision in written form, and supply the applicant with a copy of its report. A copy of the certificate of appropriateness must be submitted with the application for a building or demolition permit; no building or demolition permit shall be issued unless a copy of the certificate of appropriateness is provided by the applicant with the application.

(D) *Criteria for considering effect of actions on historic buildings.* The Commission, in considering the appropriateness of any reconstruction, alteration, maintenance, or moving of a historic building, structure, site or any part of or appurtenance to such building or structure, including walls, fences, light fixtures, steps, paving, and/or signs shall require that such work be done in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the Commission shall consider, among other things, the following:

- (1) Purposes of this subchapter;
  - (2) Historical and architectural value and significance of the building, structure, site or appurtenance;
  - (3) Compatibility and significance of additions, alterations, details, materials, or other non-original elements which may be of a different style and construction date than the original;
  - (4) The texture, material, color, style, and detailing of the building, structure, site or appurtenance;
  - (5) The continued preservation and protection of original or otherwise significant structure, material, and ornamentation;
  - (6) The relationship of buildings, structures, appurtenances, or architectural features similar to one within the same historic district, including for primary areas, visual compatibility as defined in [§ 154.572\(B\)](#); and
  - (7) The position of the building or structure in relation to the street, public right-of-way and to other buildings and structures.
- (Ord. 2007-31, § 6)

### **§ 154.571 STAFF APPROVALS.**

(A) The Commission may authorize the staff of the Commission, on behalf of the Commission, to grant or deny an application for a certificate of appropriateness.

(B) The Commission shall specify by rule the types of applications for certificates of

appropriateness that the staff of the Commission is authorized to grant or deny. The staff may not be authorized to grant or deny an application for a certificate of appropriateness for the following:

- (1) The demolition of a building, structure, or site;
- (2) The moving of a building or structure;
- (3) The construction of an addition to a building or structure; or
- (4) The construction of a new building or structure.

(Ord. 2007-31, § 7)

### § 154.572 VISUAL COMPATIBILITY.

(A) *For new construction, contemporary design, and non-historic buildings.* To preserve and encourage the integrity of historic buildings, structures, sites, monuments, streetscapes, and neighborhoods and to ensure their compatibility with any new work, the construction of a new building or structure, and the moving, reconstruction, alteration, color change, major maintenance, or repair conspicuously affecting the external appearance of any non-historic building, structure, or appurtenance within the primary area must be generally of a design, form, proportion, mass, configuration, building material, texture, color, and location on a lot compatible with other buildings in the historic district and with places to which it is visually related.

(B) *Criteria for considering visual compatibility within historic primary areas.* Within the primary area of a historic district, new buildings, structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings and places to which they are visually related generally in terms of the following visual compatibility factors.

(1) *Height.* The height of proposed buildings must be visually compatible with adjacent buildings.

(2) *Proportion of building's front facade.* The relationship of the width of a building to the height of the front elevation must be visually compatible with buildings, squares, and places to which it is visually related.

(3) *Proportion of openings within the facility.* The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.

(4) *Relationship of solids to voids in front facades.* The relationship of solids to voids in the front facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.

(5) *Rhythm of spacing of buildings on streets.* The relationship of a building to the open space between it and adjoining buildings must be visually compatible with buildings, squares, and places to which it is visually related.

(6) *Rhythm of entrances and porch projections.* The relationship of entrances and porch projections of a building to sidewalks must be visually compatible with buildings, squares,



and places to which it is visually related.

(7) *Relationship of materials, texture, and color.* The relationship of the materials, texture, and color of the facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.

(8) *Roof shapes.* The roof shape of a building must be visually compatible with buildings, squares, and places to which it is visually related.

(9) *Wall of continuity.* Appurtenances of a building or site, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to ensure visual compatibility of the building to the buildings and places to which it is visually related.

(10) *Scale of the building.* The size of a building, and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings and places to which it is visually related.

(11) *Directional expression of front elevation.* A building must be visually compatible with buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or non-directional character.  
(Ord. 2007-31, § 8)

**§ 154.573 PRESERVATION OF HISTORICAL AND ARCHITECTURAL CHARACTER UPON ALTERATION OR RELOCATION MANDATED.**

(A) A historic building or structure or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.

(B) A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with division (A).  
(Ord. 2007-31, § 9)

**§ 154.574 APPEAL PROVISIONS.**

(A) The purpose of this section is to preserve historic buildings that are important to the education, culture, traditions, and economic values of the city and to afford the city, historical organizations, property owners, and other interested persons the opportunity to acquire or to arrange for the preservation of these buildings.

(B) If the Commission denies the issuance of a certificate of appropriateness for the demolition of a building, structure, or site, a demolition permit may be issued by other agencies and a building, structure, or site may be demolished, but only after the property owner has demonstrated to the Commission that the historic building, structure, or site is incapable of earning an economic return on its value, as appraised by a licensed real estate appraiser.

(C) Notice of the proposed demolition must be given for a period fixed by the Commission,

based on the Commission's classification on the approved map, but not less than 60 days nor more than 1 year. Notice must be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice must be published in a newspaper of general local circulation at least 3 times before demolition, with the first publication not more than 15 days after the application for a permit to demolish is filed, and the final publication at least 15 days before the date of the permit.

(D) The Commission may approve a certificate of appropriateness at any time during the notice period under division (C). If the certificate of appropriateness is approved, a demolition permit shall be issued without further delay, and demolition may proceed.  
(Ord. 2007-31, § 10)

#### **§ 154.575 MAINTENANCE.**

(A) *Requirement.* Historic buildings, structures, and sites shall be maintained to meet the applicable requirements established under state statute for buildings generally so as to prevent the loss of historic material and the deterioration of important character defining details and features.

(B) *Ordinary repairs and maintenance.* Nothing in this section shall be construed so as to prevent the ordinary repairs and maintenance of any building, structure, or site. provided that such repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of any structure, or part thereof.  
(Ord. 2007-31, § 11)

#### **§ 154.576 RELATIONSHIP WITH ZONING DISTRICTS.**

Zoning districts lying within the boundaries of the historic district are subject to regulations for both the zoning district and the historic district. If there is a conflict between the requirements of the zoning district and the requirements of the historic district, the more restrictive requirements shall apply.  
(Ord. 2007-31, § 12)

#### **§ 154.577 PAINT COLORS.**

In an ordinance approving the establishment of a historic district, the city may exclude changes in paint colors from the activities requiring the issuance of a certificate of appropriateness under [§ 154.570](#) of this subchapter before a permit may be issued or work begun.  
(Ord. 2007-31, § 13)

#### **§ 154.578 INTERESTED PARTIES.**

(A) An interested party, as defined in [§ 154.565\(B\)](#), has a private right of action to enforce and prevent violation of provisions of this subchapter or an ordinance adopted by the city under this subchapter, and with respect to any building, structure, or site within a historic district, and has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating a provision of this subchapter or an ordinance adopted

under this subchapter.

(B) The interested party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this section.

(C) The interested party bringing an action under this section does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.

(D) The interested party that brings an action under this section is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this subchapter, or an ordinance adopted by a unit under this subchapter, had been, or was about to be violated.

(E) An interested party who obtains a favorable judgment in an action under this section may recover reasonable attorney fees and court costs from the person against whom judgment was rendered.

(F) An action arising under this section must be brought in the circuit or superior court of the county in which the historic district lies and no change of venue from the county shall be allowed in the action.

(G) The remedy provided in this section is in addition to other remedies that may be available at law or in equity.

(Ord. 2007-31, § 14)

**§ 154.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to [§ 10.99](#).

(B) (1) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with the provisions of this chapter within 3 days after notification of the violation shall, upon conviction, be fined subject to the provisions of § 10.99.

(Ord. 2020-36, §6)

(2) The fees and penalty shall be codified in the schedule of fees set out in the Hobart Municipal Code. Each period of placement shall require a separate permit application fee and inspection fee.

(Prior Code, § 24-175) (Ord. 94-61)

(C) (1) The purpose of this section is to address the manner in which the enforcement, violation and penalties of this chapter are administered.

(Prior Code, § 24-242)

(2) The enforcement of the provisions of this chapter, investigation into possible violations of this chapter and the penalties prescribed for violations of this chapter are as follows:

(a) It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the City's Attorney who may file a

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complaint against the person and prosecute the alleged violation.

(b) Any person may, by suit in the Circuit or Superior Court of the county, enjoin the violation of this chapter.

(c) The (Advisory) Board of Zoning Appeals by mandatory injunction in the Circuit Court of the county against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this chapter, or the removal of any use or condition permitted in violation of this chapter.

(d) A use that violates this chapter shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land or premises upon which the use is maintained shall be liable for the nuisance.

(e) Any person whether owner or possessor, who shall violate, or who permits or allows a violation, of any of the provisions of this chapter, or who fails to comply therewith or with any requirements thereunder, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted, upon which an approval or grant is given under this chapter, shall, under complaint filed in any court of the county and, upon judgement finding the violation, shall be subject to the penalty provisions of §10.99. (Ord. 2001-04; Ord. 2020-36, §6)

(f) No improvement location permit or building permit required under the Uniform Building Code or this chapter shall be issued on any property subject to this chapter in violation of the provisions of this chapter.

(g) Notwithstanding anything contained in this chapter to the contrary or appearing to the contrary, and in addition and supplementary to other provisions of this chapter, if the Board of Zoning Appeals of the City is required to utilize the City's Attorney or any other attorney in investigating a possible violation of this chapter or enforcing the provisions of this chapter pursuant to divisions (C)(2)(c), (d) or (e) or any other section, before any board or court (including appeals), and the investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or City is successful in its enforcement of the chapter by way of suit, appeal or other appropriate proceedings, the respondent, defendant or party investigated for a violation shall pay the City's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this chapter, unless the attorney fees or costs are specifically waived by the City Attorney. (Prior Code, § 24-243) (Ord. 97-15; Ord. 2001-41; Ord. 2020-36, §6)

**(D) Historic Preservation Districts.**

(1) Any person, whether as principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who violates any provision of [§§ 154.565 through 154.578](#) shall be subject to a fine as follows, for each offense:

- (a) Not less than \$10 nor more than \$2,500 for demolition; and
- (b) Not less than \$10 nor more than \$300 for all other offenses.

(2) Each day of the existence of any violation of [§§ 154.565 through 154.578](#) shall be a separate offense.

## Zoning

(3) The erection, construction, enlargement, alteration, repair, demolition, color change, moving, or maintenance of any building, structure, or appurtenance which is begun, continued, or maintained contrary to any provisions of [§§ 154.565 through 154.578](#) is hereby declared to be a nuisance and in violation of this [§§ 154.565 through 154.578](#) and unlawful. The city may institute a suit for injunction in the Circuit Court or Superior Court of Lake County to restrain any person or government unit from violating any provision of this [§§ 154.565 through 154.578](#) and to cause such violation to be prevented, abated, or removed. Such action may also be instituted by any property owner who is adversely affected by the violation of any provision of [§§ 154.565 through 154.578](#).

(4) The remedies provided for in this section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(5) Any person or party aggrieved by a decision or action taken by the Commission shall be entitled to a judicial review hereof in accordance with I.C. 4-21.5 (Ord. 2007-31, § 15)

**Hobart - Land Usage**