

DEVELOPMENT REVIEW PROCEDURES

154.595 INTENT.

The development review procedures for St. Joseph County, Indiana, are intended to provide for the protection of the public health, safety, morals and general welfare of the residential and business citizens of St. Joseph County by providing for the thorough review of all permit applications and development petitions so that informed decisions regarding such permit applications and development petitions may be rendered while balancing the needs of the development community for the timely review of those permit applications and development petitions.

(Ord. 51-05, § 8.10.05, passed 5-10-2005)

154.596 IMPROVEMENT LOCATION PERMITS.

A building permit issued by the Building Department of St. Joseph County, Indiana, which includes: the establishment of a use; the alteration, change, enlargement, placement, erection or location of any building, structure, improvement or sign which results in an increase in the height, area or bulk of such building, structure, improvement or sign, shall constitute an improvement location permit under this chapter. Any application for such building permit shall include all necessary plans, including without limitation, site plans, landscape plans, lighting plans, building elevation or sign plans necessary to determine compliance with the permitted use, development standards and other development requirements of this chapter.

(A) *Improvement location permit required.* No building, structure, improvement, sign or use of land may be altered, changed, enlarged, placed, erected or located, unless the building, structure, improvement, sign or use and its location conform to the provisions of this chapter and an improvement location permit for the alteration, change, placement, erection or location of such building, structure, improvement, sign or use has been issued.

(B) *Duration of improvement location permit.*

(1) An improvement location permit shall be valid for the longer of:

a. One year after date of issuance; or

b. The length of any required building permit, if such building permit is obtained for the building, structure, improvement or sign covered by the improvement location permit within one year after the date of issuance of the improvement location permit.

(2) The Zoning Administrator shall have the power to extend the period of validity of any improvement location permit one or more times, provided, however, the total time period of all extension(s) shall not exceed six months.

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(C) *Review of improvement location permit application.*

(1) *Improvement location permits for single family and two family dwellings and related accessory buildings or structures.* The Zoning Administrator may take up to five business days to study an application for an improvement location permit. During such five business day period, the Zoning Administrator may consult with other Staff or appropriate technical consultants. If, after such five day period, the Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure or improvement, and the proposed use conform in all respects to the provisions of this chapter, the Zoning Administrator shall issue the improvement location permit.

(2) Improvement location permits for all: multifamily, commercial / mixed use, industrial or special exception buildings, structures, improvements or uses; signs; and, accessory buildings, structures or improvements related to multifamily, commercial/mixed use, industrial or special exception uses. The Zoning Administrator may take up to 15 business days to study the application for an improvement location permit. During such 15 day period, the Zoning Administrator may consult with other Staff or appropriate technical consultants. If, after such 15 day period, the Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure, improvement or sign, and the proposed use conform in all respects to the provisions of this chapter, the Zoning Administrator shall issue the improvement location permit.

(3) *Improvement location permits for buildings, structures, improvements, signs or uses authorized by variance.* In addition to the requirements above, an improvement location permit for a building, structure, improvement, sign or use authorized by variance shall not be issued until:

(a) Receipt by the Zoning Administrator of written notice from the Board of Zoning Appeals that the application therefore has been approved by the Board of Zoning Appeals; and,

(b) A determination by the Zoning Administrator that said improvement location permit application is in full compliance with the terms of any conditions which may have been imposed by the Board of Zoning Appeals and commitments which may have been made by the owner.

(4) *Improvement location permits for buildings, structures, improvements, signs or special uses.* In addition to the requirements above, an improvement location permit for a building, structure, improvement, sign or use authorized by special exception shall not be issued until:

(a) Receipt by the Zoning Administrator of written notice from the County Council that the application therefore has been approved by the County Council; and,

(b) A determination by the Zoning Administrator that said improvement location permit application is in full compliance with the terms of any conditions which may have been imposed by the County Council and commitments which may have been made by the owner.

(D) *Appeal of determination.* Any determination by the Zoning Administrator concerning the issuance of an improvement location permit may be appealed to the Board of Zoning Appeals by any party claiming to be adversely affected by that decision.

(E) *Record of permits.* A record of all improvement location permits shall be kept on file in the Office of the Zoning Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected and shall be available for public inspection and copying as provided by applicable State law.

(F) *Amended improvement location permit.* When a builder, developer or owner of any building, structure, improvement or sign for which an improvement location permit has been obtained, for any reason, proposes that the construction of said building, structure, improvement or sign deviate from the plans filed with the improvement location permit application and approved by the Zoning Administrator, the builder, developer or owner shall make application for an amended improvement location permit. the zoning administrator shall review the application for the amended improvement location permit in accordance with the procedures set forth above to determine compliance of the amended improvement location permit application with the provisions of this chapter and any other applicable conditions, commitments or restrictions. if such amended improvement location permit application is found to be in compliance, the zoning administrator shall issue an amended improvement location permit. any determination by the zoning administrator with respect to an amended improvement location permit shall be subject to the same appeal rights and procedures as set forth above for an initial application for an improvement location permit.

(G) *Revocation in event of violation.* If the Zoning Administrator determines that construction or development is proceeding or has proceeded in violation of any applicable law, ordinance, rule, regulation, site plan, or condition approval, or that the improvement location permit has been issued in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval, the Zoning Administrator may revoke said improvement location permit. In the event that an improvement location permit is revoked, the Zoning Administrator shall send written notice of the revocation to the permit applicant.

(H) *Fees.* Fees for improvement location permits shall be as established by ordinance approved by the County Council and County Commissioners.

(Ord. 51-05, § 8.10.05A, passed 5-10-2005) Penalty, see § 154.999

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154.597 COMPLIANCE WITH OTHER LAWS, ORDINANCES, RULES OR REGULATIONS.

The issuance of an improvement location permit does not substitute for or supersede the requirement to obtain approvals specified in other laws, ordinances, rules and regulations, as the same may be amended from time to time, before the construction of any building, structure, improvement or sign, including, but not limited to:

- (A) St. Joseph County Building Codes, Chapter 151;
- (B) St. Joseph County Subdivision Control Ordinance, Chapter 153; and
- (C) Any other applicable federal, state or local law, ordinance, rule or regulation, including, but not limited to:
 - (1) Rule 5 Erosion Control Regulations;
 - (2) Sections 154.290 through 154.301, floodplain regulations;
 - (3) Driveway permit regulations for St. Joseph County, Indiana; and,
 - (4) State or federal environmental permits.

(Ord. 51-05, § 8.10.05B, passed 5-10-2005) Penalty, see § 154.999

154.598 APPLICATION FORM AND PLAN REQUIREMENTS.

All improvement location permit applications shall comply with the form of application specified by the Building Department of St. Joseph County, Indiana. When an improvement location permit is required by this chapter, additional site plans, landscape plans, lighting plans, sign plans and building elevations, as described below, may be required to determine compliance with the requirements of this chapter.

- (A) (1) A site plan for a single family dwelling or a two-family dwelling on a platted lot.
 - (a) North arrow;
 - (b) Address of the lot;
 - (c) Scale (not more than one inch equals 100 feet);
 - (d) Legal description of the lot;
 - (e) Names, center-lines and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad right-of-ways abutting or within the lot;

- (f) The location and dimensions of all buildings, structures or improvements currently existing on the lot;
 - (g) Structures proposed for demolition should be indicated as such;
 - (h) The location and dimensions of all proposed buildings, structures or improvements, including fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed buildings;
 - (i) Location of any proposed or existing driveway and its width at the property line. (Any connection to an alley must also be indicated);
 - (j) The distance from lot lines for all existing and proposed buildings, structures or improvements (this distance is measured as a line from the point where the building, structure or improvement is closest to the property line. This measurement is taken perpendicular to the property line.);
 - (k) The height of the existing and proposed buildings, structures or improvements; and
 - (l) All other information required by the Zoning Administrator for the proper administration of this Chapter.
- (2) The Zoning Administrator may waive or relax any of the site plan requirements listed above, as circumstances dictate.
- (B) (1) A site plan for any business/commercial, industrial or special use.
 - (a) North arrow;
 - (b) Address of the site;
 - (c) Scale (not more than one inch equals 100 feet);
 - (d) The actual shape, size and dimensions of the lot;
 - (e) Area map or sketch to indicate the location of the lot.;
 - (f) Names, center-lines and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad rights-of-way abutting or within the lot;
 - (g) The location and dimensions of all buildings, structures, improvements or signs currently existing on the lot;
 - (h) Structures proposed for demolition should be indicated as such;

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(i) The location and dimensions of all proposed buildings, structures, improvements or signs, including fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard-surfaced). Cross-hatch or shade lightly all proposed buildings;

(j) Location of any proposed or existing driveway and its width at the property line. (Any connection to an alley must also be indicated);

(k) (If applicable) Location of all existing and proposed freestanding signs on the site. See division (D) sign plans, below, for requirements regarding proposed signs;

(l) The distance from lot lines for all existing and proposed buildings, structures, improvements or signs. (This distance is measured as a line from the point where the building, structure, improvement or sign is closest to the property line. This measurement is taken perpendicular to the property line.);

(m) The height of the existing and proposed buildings, structures or improvements;

(n) The number of dwelling units (if applicable) of existing and proposed buildings or structures;

(p) The current and proposed use to be made of all buildings, structures, improvements or lands within the lot (e.g. parking area, loading area, residence, office, outdoor storage);

(p) Locational engineering information regarding all utilities to provide service to the buildings or structures on the lot;

(q) The location and dimensions of all off-street parking areas and off-street loading areas and facilities;

(r) The location, size and dimension of all fences, walls or other screening and buffering devices;

(s) Site data summary (a text summary in table format describing: square footage of existing and proposed buildings; existing, proposed and required parking; existing, proposed and required loading; proposed and permitted maximum building height; accommodation of drainage, sanitary sewer, water and other utility services; legal description; lighting; and landscaping);

(t) The seal of the registered professional engineer or architect responsible for the site plan; and

(u) All other information required by the Zoning Administrator for the proper administration and enforcement of this chapter.

(2) The Zoning Administrator may waive or relax any of the site plan requirements listed above, as circumstances dictate.

(C) (1) Building Elevations.

- (a) Address of the site;
- (b) Proposed name of the development;
- (c) Scale;
- (d) Elevations for each facade of the building;
- (e) Specification or sample of the type and color of building materials to be used for all wall, window, roof and other architectural features; and
- (f) Any other information requested in writing by the Zoning Administrator.

(2) Zoning Administrator, in its sole discretion, may waive or relax any of the building elevation requirements listed above, as circumstances dictate.

(D) (1) Sign plans.

- (a) Address of the site;
- (b) Proposed name of the development;
- (c) Scale;
- (d) Freestanding signs; A site plan indicating the location of any existing or proposed freestanding signs;
- (e) Wall signs; A site plan indicating the location of any building upon which a sign is to be mounted, with the location of the signs indicated;
- (f) Elevation of proposed signs including size, materials and color;
- (g) Illumination details for proposed signs;
- (h) Placement, size, color and illumination details for any proposed wall sign; and
- (i) Any other information requested in writing by the Zoning Administrator.

(2) Zoning Administrator, in its sole discretion, may waive or relax any of the Sign Plan requirements listed above, as circumstances dictate.

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- (E) (1) Landscape plans.
- (a) Address of the site;
 - (b) Proposed name of the development;
 - (c) Scale (not more than one inch equals 100 feet);
 - (d) The location of any existing or proposed freestanding signs;
 - (e) Outline of all existing or proposed buildings or structures, including parking areas and loading areas;
 - (f) Boundary lines of the site;
 - (g) Location of all floodway and floodway fringe areas within the boundaries of the site;
 - (h) All existing elevations and proposed land contour lines having at least two-foot intervals;
 - (i) Proposed sidewalk, walkway or alternate plan for pedestrian ways;
 - (j) Size, species and spacing (on center) of all proposed trees, landscaping and ground cover;
 - (k) Location of existing trees in required yards and required residential bufferyards, indicating type and size of trees and whether such trees are to be removed or preserved;
 - (l) Description of methods to preserve trees without injury and with sufficient area for the root system to sustain the tree;
 - (m) Description of protective care and physical restraint barriers at the drip line to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction; and
 - (n) Any other information requested in writing by the Zoning Administrator.

(2) Zoning Administrator, in its sole discretion, may waive or relax any of the Landscape Plan requirements listed above, as circumstances dictate.

- (F) (1) Lighting plans.
- (a) North arrow;
 - (b) Address of the site;

- (c) Scale (not more than one inch equals 100 feet);
- (d) Proposed name of the development;
- (e) Boundary lines of the site including all dimensions of the site;
- (f) Outline of buildings, structures and other improvements (e.g., parking areas, loading areas, interior access drives, etc.) on the lot and the location of all outdoor light fixtures;
- (g) A description of the outdoor light fixtures, including but not limited to manufacturers or electric utility catalog specifications sheets, drawings or photometric report, which indicate:
 - 1. The outdoor light fixture classification (e.g., cutoff, semi-cutoff, full cutoff, or non-cutoff);
 - 2. Mounting height of freestanding outdoor light fixtures; and,
 - 3. Wattage proposed for each outdoor light fixture.
- (h) If architectural building lighting is proposed, indicate the location, type and intensity of lighting on each building façade; and
- (i) Any other information requested in writing by the Zoning Administrator.

(2) Zoning Administrator, in its sole discretion, may waive or relax any of the Lighting Plan requirements listed above, as circumstances dictate.

(Ord. 51-05, § 8.10.05C, passed 5-10-2005)

154.599 ZONING ORDINANCE AMENDMENT PROCEDURES.

(A) *Generally.* The procedures and requirements for the preparation and consideration of proposal to amend or partially repeal of the text of this chapter of the St. Joseph County Code or to change the zone maps shall be as follows:

(1) *Text of zoning ordinance.* The County Council may, from time to time, upon its own motion or upon the petition of the Area Plan Commission, amend or partially repeal the text of this chapter in accordance with the provisions of Indiana Code 36-7-4-602, et seq.

(2) *Zone map change (a/k/a replacement zone map).* Proposals to change the zone maps, whether by incorporating an additional map or by amending or deleting a map, incorporated by reference into this chapter may be initiated by the County Council, the Area Plan Commission, or by a petition of the owners of property of at least 50% of the area involved in the petition in accordance with the provisions of Indiana Code 36-7-4-602, et seq.

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(3) *County Council action.* In the case of proposal to amend or partially repeal the text of this chapter or in the case of a zone map change, the County Council may act upon such amendment only after a report has been presented by the Area Plan Commission after public notice and hearing in accordance with the provisions of Indiana Code 36-7-4-604, et seq. (*Bill 103-20, 11/10/20*)

(4) *County Council may initiate proposal.* The County Council may initiate and also require the Area Plan Commission to: prepare a proposal to amend or partially repeal the text of this chapter; or, consider and recommend a proposal for zone map change, and submit such amendment to a public hearing by the Area Plan Commission within 60 days after formal written request by the County Council.

(5) *Review procedure and time limits.* The procedure for the referral of a proposed amendment to the Area Plan Commission and the time limits for action by the Area Plan Commission and the County Council shall be as set forth in Indiana Code 36-7-4-607, et seq.

(6) *Right to veto.* The county executive shall have the right of veto any proposal to amend or partially repeal the text of this chapter or any proposal for a zone map change.

(B) *Zone map amendments (a/k/a rezoning petitions).* The procedures and requirements for the preparation and consideration of proposal to amend zone maps shall be as follows:

(1) *Filing; forms.* A proposal for zone map change (a/k/a rezoning petition) shall be filed in the office of the County Council of St. Joseph County, Indiana. The proposal shall be on forms substantially as provided by St. Joseph County and available from the Area Plan Commission.

(2) *Required Plans.* Each proposal for zone map change shall be accompanied by six copies of a proposed Site Plan which conforms generally to the requirements set forth in § 154.598, above. Requests for changes to the “R” Residential District shall be exempt from filing preliminary site plans.

(3) *Referral.* The County Council shall refer a proposal for zone map change to the Area Plan Commission for public hearing and recommendation.

(4) *Supplemental plans.* Depending on the nature of the proposal, the Executive Director shall have the authority to request the submission of other supplemental information including but not limited to Building Elevations, Sign Plans, Landscape Plans, Lighting Plans or traffic studies. If requested, such additional Building Elevations, Sign Plans, Landscape Plans or Lighting Plans shall conform to the requirements set forth in § 154.598, above.

(5) **Certification; generally.** After public hearing, the Area Plan Commission shall certify the proposal with a:

- (a) Favorable recommendation;
- (b) Unfavorable recommendation; or,
- (c) No recommendation.

(6) *Certification; written commitments.* The certification of a proposal by the Area Plan Commission to the County Council may include written commitments as set forth in § 154.543. The commitments may include: limitations upon certain uses; requirements for specific building or parking area setback or screening; requirements for specific site design features or project amenities; or, requirements that development conform with site plans, building elevations, sign plans, landscape plans or lighting plans which were submitted in connection with the proposal.

(7) *Adoption or rejection.* The County Council may adopt or reject the proposal for zone map change, as certified.

(8) *Right to veto.* The county executive shall have the right to veto any proposal for zone map change.

(Ord. 51-05, § 8.10.05D, passed 5-10-2005)

154.600 VARIANCE, SPECIAL USE AND CONDITIONAL USE PROCEDURES.

The procedures and requirements for the preparation and consideration of petition for a variance of development standards, special use or conditional use shall be as follows:

(A) *Petitions.* Petitions for a variance of development standards, special use or conditional use shall be filed in the office of the Area Plan Commission of St. Joseph County, Indiana. The proposal shall be on the form provided. *(Ord. No. 8-18; 1/9/2018)*

(B) *Required Plans.* Each petition for a variance of development standards, a special use or a conditional use shall be accompanied by a site plan which conforms to the requirements set forth in § 154.598, above.

(C) *Supplemental Plans.* Depending on the nature of the petition, the Zoning Administrator shall have the authority to request the submission of plans of operation, traffic studies, radio frequency studies, or other supplemental information including but not limited to building elevations, sign plans, landscape plans or lighting plans. if requested, such additional building elevations, sign plans, landscape plans or lighting plans shall conform to the requirements set forth in § 154.598, above.

(D) *Variance of development standards.* The Board of Zoning Appeals, at a public hearing, shall hear and determine all variances of development standards.

(E) *Special uses.* The Board of Zoning Appeals, at a public hearing, shall hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the

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County Council on all special uses. The County Council shall, approve or disapprove all petitions for special exception uses within 60) days after the Board of Zoning Appeals makes its recommendation. If the County Council does not vote to deny the petition for a special use within 60 days, the petition is approved.

(F) *Conditional uses.* The Board of Zoning Appeals, at a public hearing, shall hear and determine all conditional uses.

(Ord. 51-05, § 8.10.05E, passed 5-10-2005)

154.601 MODIFICATION OR TERMINATION OF COMMITMENTS.

In those instances where a property owner wishes to request that commitments which were entered into in connection with a zone map change, PUD District Ordinance, secondary approval of a PUD, modification of permitted uses or development requirements of a PUD, variance of development standards, a special use or a conditional use be modified or terminated, such request for modification or termination shall comply with the following requirements:

(A) *Form of filing.* Such request shall be filed as a petition for modification or termination of commitments with the body which permitted or required the commitments (i.e., the Area Plan Commission or the Board of Zoning Appeals).

(1) In the case of a modification or termination of commitments permitted or required by the Area Plan Commission, such petition shall be on forms provided by the Office of the Area Plan Commission.

(2) In the case of a modification or termination of commitments permitted or required by the Board of Zoning Appeals, such petitions shall be on forms provided by the Area Plan Commission of St. Joseph County. *(Ord. No. 8-18; 1/9/2018)*

(B) *Public hearing and notice.* Each request for modification or termination of commitments shall be determined after a public hearing. The notification requirements and other procedural requirements for conducting the public hearing on a modification or termination of commitments shall be the same as for the initial public hearing at which the commitments were originally permitted or required.

(C) *Reasons for modification or termination.* The petitioner or property owner shall be responsible for presenting convincing evidence to the Area Plan Commission or the Board of Zoning Appeals as to the reasons, need or justification for the proposed modification or termination of commitments.

(Ord. 51-05, § 8.10.05F, passed 5-10-2005)

154.602 COMBINED PUBLIC HEARING PROCEDURE.

(A) The Area Plan Commission may designate a hearing examiner or committee of the commission to conduct a combined hearing relative to developments that require more than one hearing under this Title.

(B) The decision to use this procedure shall be made by the applicant.

(C) In conducting a combined hearing, the hearing examiner or committee of the Commission may exercise the following:

(1) the powers of the Area Plan Commission in making recommendations to the County Council on rezoning petitions and text amendments under the I.C. 36-7-4-600 series.
(Bill 103-20, 11/10/20)

(2) the powers of the Plat Committee in approving or denying subdivision plats under the I.C. 36-7-4-700 series.

(3) the powers of the Board of Zoning Appeals to grant variances and make recommendations on special exceptions under the I.C. 36-7-4-900 series.

(4) the powers of the Executive Director, hearing examiner or committee of the Area Plan Commission as it concerns the approval of Development Plans under the I.C. 36-7-4-1400 series.

(D) Decisions of the hearing examiner or committee of the Area Plan Commission under the combined hearing procedure may be excepted to or appealed as follows:

(1) decisions made in relation to the powers granted under Chapter 154.602(C)(1) may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

(2) decisions made in relation to the powers granted under Chapter 154.602(C)(2) may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

(3) decisions made in relation to the powers granted under Chapter 154.602(C)(3) may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

(E) The Area Plan Commission shall make rules governing the hearing of cases under the combined hearing procedure. The rules may not require a petitioner or an applicant to use the combined hearing procedure.

(Ord. 80-12, 7-10-2012)