

PROVISIONS OF COMMON APPLICABILITY

154.001 TITLE.

The ordinance codified in this Chapter shall be known, cited, and referred to as “The St. Joseph County Zoning Ordinance.” (*Ord. 51-05, 5/10/05*)

154.002 INTERPRETATION.

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

(B) 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 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.

(C) 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 such easements, covenants, or other private agreements, the requirements of this Chapter shall govern.

(D) Nothing contained in this Chapter shall be deemed to be a consent, license, or permit to use any property, or to locate, construct or maintain any building, structure or facility or to carry on any trade, industry, occupation or activity.

(E) The provisions in this Chapter are cumulative and additional limitations upon all other laws and ordinances, heretofore passed or which may be passed hereafter, governing any subject matter in this Chapter.

(F) Illustrations, diagrams, and flowcharts are included in this Ordinance to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustrations, diagram, or flowchart, the text controls. (*Ord. 52-20, 8/25/20*) (*Ord. 51-05, 5/10/05*)

154.003 SCOPE.

(A) Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of the ordinance codified in this Chapter, and provided that construction is begun within six months of the effective date and diligently prosecuted to completion, said building or structure maybe 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 for nonconforming buildings, structures and uses in §§ 154.045 through 154.058.

CHAPTER 154: PLANNING AND ZONING
Provisions of Common Applicability

(B) Where the Building Commissioner of the county has issued a permissive use permit, a special use permit, or a permit for a variance pursuant to the provisions of this Chapter, such permit shall become null and void unless work thereon is substantially underway within six months of the date of the issuance of such permit, or within the period of time beyond six months granted by the Board of Zoning Appeals or a specific permit.

(C) A special use permit shall be deemed to authorize only one (1) particular special use. A special use established on or after the effective date of the ordinance codified in this Chapter or a special use existing prior to the effective date of the ordinance codified in this Chapter shall expire if it ceases for more than twelve (12) months for any reason.

(D) Where a lot is to be occupied for a permitted use without buildings, the side yards and front yard required for such lot shall be provided and maintained unless otherwise stipulated in this Chapter; except, that yards shall not be required on lots used for growing of crops in the open, nor on lots used for public recreation areas without buildings or structures.

(E) No land which is located in a residential district shall be used for driveway, walkway, or access purposes to any land which is located in a business, commercial, industrial or manufacturing district, or used for any purpose not permitted in a residential district, unless approved by the Board of Zoning Appeals as a conditional use pursuant to the procedures set forth in §§ 154.555 through 154.565. (*Ord. 51-05, 5/10/05*)

154.004 FRONTAGE ON IMPROVED PUBLIC ROAD.

Except for individual lots located within a project created under the authority of IC 32-1-6, no building permit shall be issued for any primary structure on any lot unless said lot has frontage on a dedicated, accepted and improved public road as required by Ordinance #APC 240-78 adopted on April 11, 1978 and is in conformance with the lot width requirements contained in this Chapter. The requirement for frontage on an improved public road shall not apply to existing structures located in the A: Agricultural District.

(*Ord. 51-05, § 8.01.01D, 5/10/05*) Penalty, see § 154.999

154.005 NUMBER OF BUILDINGS ON LOT.

In the A: Agricultural District and R: Single Family District, not more than one (1) principal detached dwelling shall be located on a lot, nor shall a principal detached dwelling be located on the same lot with any other principal building except as maybe authorized as a special use in accordance with procedures set forth in this Chapter.

(*Ord. 51-05, § 8.01.01E, 5/10/2005*) Penalty, see § 154.999

154.006 YARDS – GENERALLY.

(A) All yards and other open spaces allocated to a building, or group of buildings comprising one principal use, shall be located on the same lot as such building and the maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space, or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

(B) No improved lot shall hereafter be divided into two or more lots and no portion of any improved lot shall be sold unless all improved lots resulting from each such division or sale shall conform with all the applicable bulk regulations of the zoning district in which the property is located and the regulations of the St. Joseph County Subdivision Control Ordinance, as codified in Chapter 153.

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

(Ord. 51-05, § 8.01.01F, 5/10/05) Penalty, see § 154.999

154.007 HEIGHT OF BUILDINGS AND STRUCTURES IN VICINITY OF AIRPORTS.

Airports and surroundings are subject to the applicable federal and state regulations and to the regulations of the Board of Aviation Commissioners of the county, as well as to the following requirements:

(A) Building height in areas surrounding public use airports, as defined in I.C. 8-21-10-2, are regulated pursuant to Indiana Statutes where such heights are more restrictive than those that may be contained in this chapter.

(B) No special use shall be issued for a public use airport, as defined in I.C. 8-21-10-2, as amended from time to time, unless:

(1) A certificate of approval from the Aeronautics Commission of Indiana has been first obtained; or

(2) The issuance of this special use is conditioned on the certificate of approval of the Aeronautics Commission of Indiana being obtained.

(C) Special use permits for airports, public and private, shall be issued pursuant to the standards for special uses set out elsewhere in this Chapter. In determining whether adequate safety standards are met by an airport, other than a public use airport, the Board of Zoning Appeals shall be guided by applicable rules and regulations of the Aeronautics Commission of Indiana.

CHAPTER 154: PLANNING AND ZONING
Provisions of Common Applicability

(D) Nothing in this section shall be construed to limit an owner of property surrounding such nonpublic use airport as to the height of structures he may build or permit to be built thereon, or to prohibit the rezoning of such surrounding property to residential, business or commercial uses, or to permit the operation of an airport where a change in condition renders continued operation unsafe.

(Ord. 51-05, § 8.01.01H, passed 5/10/05) Penalty, see § 154.999

154.008 SEWAGE TREATMENT AND WATER SUPPLY.

Regardless of other provisions of this Chapter, there shall be, if required, additional lot area over the minimum lot area designated for any use in all districts to provide for sufficient ground area, unoccupied by a building, structure, or paving, for installation of proper systems of sewage treatment and water supply conforming with the standards and requirements of the County Health Officer and the Indiana State Board of Health. Plot plans accompanying building permit applications shall show clearly the proposed sewage treatment system and well locations.

(Ord. 51-05, § 8.01.01I, 5/10/05) Penalty, see § 154.999

154.009 DAMS AND WATERCOURSES.

The County Council reserves the right to enact appropriate zoning regulations governing the erection of dams and the use of land in conjunction therewith, and nothing contained in this Chapter shall be deemed to regulate, prevent or control the erection or maintenance of dams on natural watercourses and the overflowing of any lands in connection therewith.

(Ord. 51-05, § 8.01.01J, 5/10/05) Penalty, see § 154.999

154.010 FLOOR AREA RATIO APPLICATION IN PARTICULAR CASES.

In all cases where two or more contiguous lots are in common ownership and there was, at the adoption date of this Chapter, an existing building on one of such lots with less than the permitted maximum floor area ratio, the owner may elect to add the unused portion of the floor area ratio of the existing building to the maximum permitted floor area ratio of any addition to the existing building to be constructed on the adjoining lot; and in the event that such existing building was lawfully existing at the date of adoption of the ordinance codified in this Chapter, and exceeds the permitted maximum floor area ratio, an addition to the existing building to be constructed on an adjoining lot shall be entitled to the maximum floor area ratio permitted in the district in which it is located.

(Ord. 51-05, § 8.01.01K, 5/10/2005)

154.011 SUBDIVISION OF LAND.

Subdivision of land per the County Subdivision Ordinance may occur in all zoning districts.

(Ord. 51-05, § 8.01.01L, 5/10/05)

154.012 GENERAL USE PROVISIONS – PERMITTED USES.

(A) Primary Uses.

Primary uses of land or buildings, as listed in this Chapter in each zoning district shall be allowed in the districts indicated under the conditions specified, subject to the provisions of §§ 154.475 through 154.478.

(B) Special Uses.

Special uses, as listed in this Chapter in each zoning district, may be allowed only in the zoning district indicated, subject to the issuance of special use permits in accordance with the procedures set forth in § 154.555 through 154.565, including approval by the legislative body, with the exception of the following: where a building or structure and the use thereof or use of land lawfully exists on the effective date of the ordinance codified in this Chapter, and such use is classified by this Chapter as an allowable special use in the zoning district where it is located, the existing building or structure and the use thereof or the use of land where no building or structure is involved, comprising such a special use, shall be considered a lawful special use; except, a special use permit shall be required in accordance with regulations set forth in § 154.555 through 154.565 for any expansion of physical development or use of land for such special use, including new buildings or structures or additions or enlargements to existing buildings or structures and extension of land improvements or expansion of such use of land where no buildings or structures are involved.

(C) Conditional Uses.

Conditional Uses may be permitted by the Board of Zoning Appeals in any zoning district in accordance with the procedures set forth in § 154.564.

(Ord. 51-05, § 8.01.01M, 5/10/05; Ord. 68-09, § 1, 8/11/09)

154.013 EXEMPTIONS.

The following uses are exempted by this Chapter and permitted in any district:

(A) Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or any other similar installation for telephone, electric, gas, water and sewer systems; provided, that installations shall conform with rules and regulations of federal, state, county, and other authorities having jurisdiction.

(B) Nothing in this Chapter is intended to affect and shall not be deemed or construed to affect the powers conferred upon the board of aviation commissioners of the county by I.C. 8-22-1, as amended.

(Ord. 51-05, § 8.01.01N, 5/10/05)