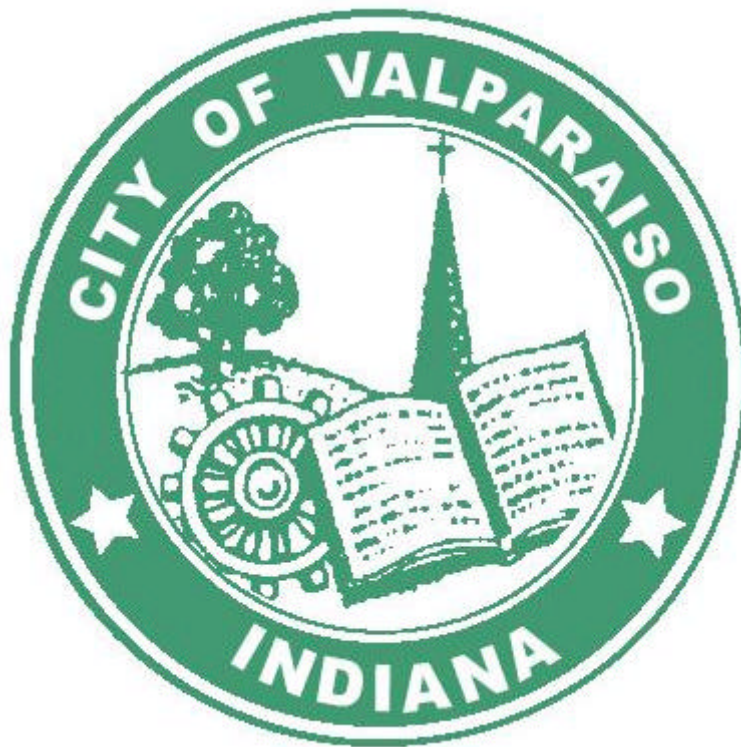


# **City of Valparaiso, Indiana**



## **Zoning Ordinance**

**August, 2004**

LAST UPDATE: 03/14/06

Part I  
Article I

**TITLE, PURPOSE AND JURISDICTION**

**Section 100 Title**

An Ordinance regulating the location, height, bulk, erection, construction, alteration, razing, removal, and size of structures; the percentage of lot which may be occupied, the distribution of population, the intensity of use of land or bodies of water for trade, industry, residence, recreation, public activities, or other purposes; and the uses of land for agriculture, water supply, conservation, or other purposes.

**Section 101 Short Title**

This Ordinance shall be know as and may be cited as the Zoning Ordinance of the City of Valparaiso.

**Section 102 Purpose**

The purpose of this Ordinance is to promote the health, safety, morals, convenience, order, and general welfare of the present and future inhabitants of the City of Valparaiso by:

- A. Lessening the danger and congestion of traffic on the roads and highways and reducing excessive numbers of roads.
- B. Securing safety from fire, panic, flood, and other dangers.
- C. Providing adequate light and air.
- D. Controlling and regulating the growth of the area; encouraging development in areas where adequate sewage, roads, and schools can be provided; and limiting development in areas where these facilities are not provided.
- E. Promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, schools, parks, and other public facilities, educational opportunities, recreation, soil fertility, and food supply in accordance with the Comprehensive Plan of the City of Valparaiso.
- F. Providing standards to control the amount of open space and impervious surfaces within a development; to control the intensity of development in areas of sensitive natural resources or natural features in order to reduce or eliminate adverse environmental impacts; to protect the people's right to clean air, pure water, and the natural, scenic, historic, and aesthetic values of the environment; and to protect natural resources which are a part of the ecological system to which we are all bound, which are therefore the common property of all the people including generations yet to come, and which must be protected to insure health, safety and welfare of all the people.
- G. Protecting land best suited for agricultural use from the encroachment of urban-type residential and business development in order to promote more efficient use of the increasingly reduced area of land in agricultural uses as the result of expanding urbanization.

- H. Providing standards for all types of dwelling units so that all the people may have access to decent, sound, and sanitary housing.
- I. Preventing additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed in this Ordinance.
- J. Securing economy in governmental expenditures, and protecting and conserving the value of land in the City and the value of buildings and improvements upon the land.
- K. Fostering a balanced community, and minimizing conflicts among the uses of land and buildings.
- L. Protecting the character and maintaining the stability of residential, business, and manufacturing areas, and promoting the orderly and beneficial development of such areas.

## **Section 120 Interpretation**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare.

- 1. Whenever any regulations made under authority of this Ordinance require a greater width or size of yard, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute, the provisions of the regulations made under this Ordinance shall govern.
- 2. Whenever the provisions of any other statute require a greater width or size of yard, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by regulations made under authority of this Ordinance, the provisions of such statute shall govern.
- 3. This Ordinance does not repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically or by implication repealed by this Ordinance, nor any private restrictions placed upon property by covenant, deed, or other private agreement unless such agreement is less restrictive than the provisions of this Ordinance or is inconsistent with the purpose and intent of this Ordinance.
- 4. Provisions in the Valparaiso Subdivision Control Ordinance providing for varying design standards shall not be considered to be in conflict with the provisions of this Ordinance.

## **Section 150 Separability**

It is hereby declared to be the intent of the City of Valparaiso that:

- 1. If a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.
- 2. If a court of competent jurisdiction finds the application of any provision or provisions of this Ordinance to any lot, building, or other structure, or tract of land, to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situations shall not be affected.

Part I  
Article II

**DEFINITIONS**

**Section 200**

For the purpose of this Ordinance, certain terms are defined in this Section. When not inconsistent with the context, words used in the present tense include the future tense, words in singular number include the plural number, and words in the plural number include the singular number. The word "shall" is always mandatory and not merely directory. The term "person" shall mean an individual, partnership, corporation or other association or their agents. Terms not defined in this Section shall have the meanings customarily assigned to them.

*ACCESSORY BUILDING OR USE:* A building or use which:

1. Is subordinate to and serves a principal building or principal use.
2. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served.
3. Is subordinate in area, extent or purpose to the principal building or principal use served.
4. Is located on the same lot as the principal use or structure served, with the exception of accessory off-street parking facilities as are permitted elsewhere than on the same lot with the use or structure.

*ACREAGE:* Any tract or parcel of land which has not heretofore been subdivided or platted.

*AGRICULTURE:* Land, or land and structures, the principal uses of which are the growing of farm or truck garden crops and one more of the following: dairy farming, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry activities, including the farm dwellings or lodging for permanent or seasonal workers.

*AIRCRAFT:* Any contrivance, now known or hereafter invented for use in or designed for navigation of or flight in the air.

*AIRPORT:* Any area of land or water which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

*ALLEY:* Any dedicated public way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

*ALTERATION OR REMODELING:* Any change in the structural members, stairways, basic construction, type, kind, or class of occupancy, light or ventilation, means of egress and ingress, or any other change of an existing building or structure affecting or regulated by the Building Code of this Ordinance, except for minor repairs or changes not involving any of the aforesaid provisions.

*ANIMAL HOSPITAL:* A structure or portion thereof designed or used for the care, observation or treatment of domestic animals.

*APARTMENT:* A part of a building consisting of a room or suite of rooms intended, designed, or used as a complete housekeeping unit.

*APARTMENT HOUSE:* A residential structure containing three (3) or more apartments.

*ARCHITECTURAL FEATURES:* Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

*AUDITORIUM:* A room or building made a part of a church, theater, school, recreation building or other buildings assigned to the gathering of people as an audience to hear lectures, plays and other presentations.

*AUTO REPAIR (MAJOR):* Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers, collision service, including body, frame or fender straightening, or repair and painting of vehicles.

*AUTO REPAIR (MINOR):* Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under "Auto Repair (Major)".

*AUTOMOBILE AND TRAILER SALES AREA:* An open or enclosed area other than a street used for the display or sale of new or used automobiles or trailers; and where no repair work is done except for minor incidental repair of automobiles or trailers to be displayed or sold on the premises.

*AUTOMOBILE WASH ESTABLISHMENT:* A building, or portion thereof, the primary purpose of which is the washing of motor vehicles.

*BASEMENT:* The lowest story of a building, below the main floor and wholly or partially lower than the surface of the ground. A basement may be occupied as a dwelling unit only if it meets the requirements of the One and Two-Family Dwelling Code.

*BLOCK:* A tract of land bounded on all sides by any of the following: a) streets, b) public parks, c) railroad rights-of-way, when located at or above ground level but not including sidings or spurs in same ownership as the zoning lot, d) corporate boundary lines of the City of Valparaiso.

*BLOCK FRONT:* All of the property on one side of a street and lying between the two nearest intersecting streets, or between one intersecting street and a railroad right-of-way, unsubdivided acreage, river, or lake; or between any of the foregoing or any other barrier to the continuity of development.

*BOARD:* Board of Zoning Appeals of the City of Valparaiso.

*BOARDING HOUSE/BED AND BREAKFAST INN:* Single dwelling unit, owner-occupied, with one cooking facility, and five or less rentable guest rooms.

*BUILDING:* Any structure, either temporary or permanent, for the shelter, support or enclosure of persons, animals, or property. Tents, awnings, or vehicles situated on private property and used for purposes of a building shall also be considered a building. When any portion of a structure is completely separated from every other part thereof by division walls from the ground up, and without openings, each such portion of such structure shall be deemed a separate building.

**BUILDABLE AREA:** The space remaining on a lot after the minimum open space requirements of this Ordinance have been complied with.

**BUILDING COVERAGE:** The area on a lot occupied by buildings and structures including accessory buildings.

**BUILDING LINE:** A line established, in general, parallel to the front lot line or right-of-way line, beyond which no part of a building shall project, except as otherwise provided in this Ordinance.

**BUILDING, MAIN OR PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is situated.

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

1. Size and height of buildings.
2. Location of exterior walls at all levels in relation to lot lines.
3. Gross floor area of buildings in relation to lot lines, streets and other buildings.
4. All open spaces allocated to the buildings.
5. Amount of lot area per dwelling unit.
6. Required parking areas.

**CANOPY:** A structure, other than an awning, made of cloth, metal or other material with frames attached to a building and carried by a frame supported by the ground or sidewalk.

**CAPACITY IN PERSONS:** Of an establishment or use in the maximum number of persons that can avail themselves of the service or goods of such establishment, at any time, with reasonable safety and comfort, as determined by the Building Code.

**CARPORT:** A partially enclosed structure principally devoted to the storage of motor vehicles.

**CELLAR:** A room or group of rooms totally below the ground and usually under a building. A cellar may be occupied as a dwelling unit only if it meets the requirements for dwelling units as set forth in the One and Two-Family Dwelling Code.

**CEMETERY:** Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery for which perpetual care and maintenance is provided. No cemeteries will be permitted in any district except by Special Exception. In addition, if a request for a Special Exception is granted for a cemetery and the request does not specifically include crematories, mausoleums or mortuaries, then these uses shall not be permitted without first requesting an additional Special Exception.

**CHANGE OF USE:** A change of any occupancy classification as defined in the **Indiana Uniform Building Code**.

**CHILDREN'S HOME:** A facility for the care of children under the age of 18 that provides meals and lodging. Said home shall conform and qualify for license under State law. Said home does not include foster family homes.

*CLINIC - MEDICAL OR DENTAL:* A building or portion thereof, the principal use of which is for offices of physicians or dentists or both, for the examination and treatment of persons on an out-patient basis.

*CLUB:* A non-profit association of persons who are bona fide members, paying dues, which owns or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

*CLUB OR LODGE/PRIVATE:* A non-profit association of persons who are bona fide members, paying dues, which owns or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

*COMMISSION:* The Valparaiso Plan Commission.

*COMPREHENSIVE PLAN:* The Comprehensive Plan for the City of Valparaiso, as amended, showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, parks, schools, transportation corridors, and other community facilities, and which describes the community's goals, objectives, and policies for future growth and development of the City.

*CONDOMINIUM:* A condominium is an ownership arrangement, not a land use; therefore, it is allowed in any district and under the same restrictions as the residential use that comprises it. A condominium is a dwelling unit that is owned by the occupant, and all or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with the Horizontal Property Law of the State of Indiana.

*CONFORMING STRUCTURE.* A structure which: 1) complies with all the regulations of this Ordinance or of any amendment thereto governing bulk of the district in which said structure is located; or 2) is designed or intended for a permitted or special use as allowed in the district in which it is located.

*CONVALESCENT OR NURSING HOME:* A home for the care of the aged or physically or mentally disabled, wherein two or more persons are cared for, but not including hospitals or clinics. Said home shall conform and qualify for license under State laws even though State laws may not apply to such home because the number of persons cared for as specified in this definition is less than the number set forth in the State Statutes.

*COOPERATIVE HOUSEHOLD:* Single dwelling unit, NOT owner-occupied, with one cooking facility, and five or less non-related residents.

*CURB LEVEL:* The level of the established curb in front of a building or structure measured at the center of such front. Where no curb level has been established, it shall be deemed to be the established level of the center line of the street surface in front of a building or structure, measured at the center line of such front.

*DECIBEL:* A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

**DETENTION POND:** A natural or artificial stormwater storage area that is designed and maintained to temporarily contain water only when excess stormwater run-off occurs. Also known as a dry-bottom stormwater storage area.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate including but not limited to construction, reconstruction, addition to a building, manufactured home, installation of utilities, walls, fences, roads or similar projects; construction of flood control structures; mining, dredging, filling, grading, excavation or drilling; storage of materials; or any other activity that might change the direction, height, or velocity of flood or surface waters.

**DISPENSING DEVICE:** Any mechanically or manually operated device for the dispensing of merchandise such as, but not limited to, soft drinks, milk, ice, candy, cigarettes or other items.

**DISTRICT:** A portion of the City of Valparaiso within which uses of land and buildings are permitted and wherein regulations and requirements apply under the provisions of this Ordinance on a uniform basis.

**DORMITORY:** A residence hall providing sleeping rooms owned and operated by a college, university, or other educational institution devoted exclusively for occupancy by persons enrolled in said institution and for adult supervisors employed by the institution.

**DRIVE-IN:** Any establishment that has parking space specifically for consumers to purchase and consume food and/or beverages in a motor vehicle parked on the premises.

**DRIVE-THROUGH:** Any establishment which includes a specific traffic lane for services that are extended directly to consumers located in a motor vehicle which is usually left running during business transactions.

**DWELLING UNIT:** Any building or portion thereof having cooking facilities, which is used or designed as a discrete habitable unit. However, in no case shall a mobile home, manufactured home other than Type I, automobile chassis, or tent be considered a dwelling unit. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the parts so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relating to dwellings.

- Dwelling, Multiple - a building or portion thereof, used or designed for three or more dwelling units or occupied by five or more unrelated persons.
- Dwelling, Row House or Townhouse - a row of three or more attached dwelling units, not more than two and one-half stories in height, each dwelling having its own front and rear yards and entrances.
- Dwelling, Single Family - a single unit dwelling occupied exclusively by one family.
- Dwelling, Single Unit - a detached building used or designed for not more than one dwelling unit.
- Dwelling, Two Family - a two unit dwelling occupied by two families.
- Dwelling, Two Unit - a detached building used or designed for two units.

**EASEMENT:** An authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**EFFICIENCY UNIT:** A dwelling unit consisting of one principal room, other than the bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, provided such dwelling unit shall contain not less than three hundred (300) square feet of floor space.

**ERECTED:** The word "erected" shall include the words built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Building excavations, fill, drainage, and the like shall be considered a part of erection.

**EROSION:** The wearing away of the land surface by the action of wind, water or gravity.

**ESSENTIAL SERVICES:** The erection or maintenance by public utilities, municipal departments or commissions, of underground, surface or overhead gas, communication, electrical, steam, fuel, or water transmission or distribution systems, collection, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare.

**EXCAVATING:** The removal of sand, stone, gravel, or fill dirt below the average elevation of the surrounding land or established grade.

**FAMILY:** One or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, and occupying the whole or part of a dwelling unit as a single housekeeping unit. A family shall be deemed to include domestic servants, and not more than three boarded minor children. Notwithstanding the definition in the preceding paragraph, a family shall be deemed to include four or more persons not within the second degree of kinship occupying a dwelling unit and living as a single, housekeeping unit, if said occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

**FENCE:** A structure which is a barrier and used as a boundary or means of protection or confinement.

**FILLING:** The depositing or dumping of any matter onto, or into the ground, except such as is related to common household gardening.

**FLOOD OR FLOODWATER:** The water of any lake or watercourse which is above the banks and/or outside the channel and banks of such watercourse. See Regulatory Flood.

**FLOOD CONTROL:** The prevention of floods, the control, regulation, diversion, or confinement of floodwater of flood flow, and the protection therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage, and destruction caused hereby.

**FLOOD HAZARD AREA:** Any floodplain or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs, or other works approved by the Indiana Natural Resources Commission.

**FLOOD PROTECTION GRADE:** The elevation of the lowest point around the perimeter of a building at which floodwater may enter the interior of the building.

**FLOOD PROOFED BUILDING:** A commercial or industrial building designed to exclude floodwaters from the interior of that building. All such flood proofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the regulatory flood.

**FLOODPLAIN:** The relatively flat area or low land adjoining the channel of a river or stream, which has been or may be covered by floodwater. The floodplain includes the channel, floodway, and floodway fringe.

**FLOODWAY:** The channel of the stream or body of water and that portion of floodplain that is inundated by a flood and used to carry the flood flow. The Floodway District is that area designated as a "regulatory floodway" by the Indiana Department of Natural Resources.

**FLOODWAY FRINGE:** Those portions of the flood hazard area lying outside the floodway. The Floodway Fringe District is that portion of the flood hazard area lying outside the Floodway District.

**FLOOR AREA:** 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 walls separating two buildings. The floor area of a building shall include basement floor area, elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of seven (7) feet, ten (10) inches or more, interior balconies, and mezzanines. Any space devoted to off-street parking or loading shall not be included in the measure of floor area.

**FLOOR AREA RATIO:** The numerical value obtained through dividing the gross floor area of a building or buildings by the net lot area on which such building or buildings is located.

**FRATERNITIES/SORORITIES:** An incorporated organization of persons which provides sleeping accommodations with or without accessory common rooms and cooking and eating facilities, for groups of unmarried students in attendance at an educational institution.

**GARAGE, COMMERCIAL:** Any building except those described as a private, community, or storage garage, available to the public and used principally for the storage of automobiles or motor-driven vehicles, for remuneration, hire or sale, where any such vehicles or engines may also be equipped for operation, repaired, rebuilt or reconstructed, and where vehicles may be greased, washed or serviced.

**GARAGE, PRIVATE:** A detached accessory building or portion of a main building, used for the storage of self-propelled vehicles for the use of the occupants of the lot on which said garage is located and with a capacity of not more than three (3) motor vehicles. Definition includes storage on any one lot, for the occupants thereof, of not more than one commercial vehicle not exceeding a rated capacity of three-fourth (3/4) ton.

*GARAGE, STORAGE:* A building, except a private garage, used exclusively for the storage of self-propelled vehicles, and where such vehicles are not repaired or otherwise serviced or cared for.

*GASOLINE DISPENSING AND SERVICE STATION:* A gasoline dispensing and service station is a building or structure designed or used for the retail sale or supply of fuels and where gasoline or other volatile flammable liquids or liquefied flammable gases are transferred to fuel tanks (including auxiliary fuel tanks) of self-propelled vehicles.

*GREEN SPACE:* Green space is that portion of the surface area of a lot or parcel covered by woody, herbaceous, or aqueous material.

*GRADE OR AVERAGE GROUND LEVEL:* The established grade shall be the average elevation of the finished ground surface adjacent to the walls or foundation of the principal building on a lot.

*GREENBELT OR BUFFER STRIP* A strip of land of definite width and location, planted with shrubs and/or trees to serve as an obscuring screen or buffer.

*GROUP HOME:* Group Home for the Developmentally Disabled person: A dwelling unit regulated and licensed by the appropriate state agencies, housing not more than eight (8) developmentally disabled individuals who will be supervised at all times by qualified staff. The home shall provide at least 300 square feet of usable floor space for each resident, at least 1,000 square feet of outdoor recreation area and shall provide parking spaces in accordance with the requirements of the specific zoning district.

*HEIGHT OF BUILDING:* The vertical distance from the finished ground level at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line for a mansard roof, to the mean height level between the eaves and ridge for hip, gabled and gambrel roofs. (Fig.1)

*HIGHWAY:* An expressway, State or Federally maintained thoroughfare, or limited access highway, as designated on the Official Thoroughfare Plan.

*HOME OCCUPATION:* Any occupation or professional activity which is conducted entirely within the dwelling and carried on exclusively by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and provided further, that no article or service is sold or offered for sale on the premises, except such as is produced by such occupation.

*HOSPITAL:* An institution providing health services, primarily for patients who remain overnight, and medical and surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

*HOTEL/MOTEL:* A building occupied or used for the lodging of individuals or groups of individuals, with or without meals, and in which there are more than five (5) sleeping rooms, and which no provision is made for cooking in any guest room; and all state approvals are completed.

*JUNK*: For the purpose of this Ordinance, the term “junk” shall mean any motor vehicles, machinery, appliances, products, merchandise with parts missing or scrap metals or other scrap metals that are damaged, deteriorated, or are in a condition which would preclude the product’s use for its originally designed purpose.

*JUNK YARD*: A lot or part thereof which is used for storage, keeping or abandonment of junk, including scrap metal, vehicles, machinery or part thereof.

*KENNEL*: Any lot or premises on which four or more dogs, four (4) months or more old, are kept permanently or temporarily.

*LABORATORY*: A place devoted to experimental or routine study, such as testing and analytical operations, and in which manufacturing of product or products are not permitted.

*LOADING SPACE*: An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading and unloading merchandise or materials.

*LOT*: A parcel of land occupied or to be occupied by one main building and its accessory buildings with such open spaces and off-street parking spaces are required by the provision of this Ordinance and having frontage upon a public street.

*LOT AREA*: The area of any lot exclusive of street, highway, alley, road, or other rights-of way. Easements are considered to be a part of the Lot Area.

*LOT, CORNER*: A lot located at the intersection of two or more streets or a lot bounded on two sides by a curving street, two chords of which form an angle of one hundred thirty-five (135) degrees or less. The point of intersection of the street lot lines is the “corner”. In the case of a corner lot with curved street lines, the corner is that point on the street lot line nearest to the point of intersection of the chords described above. (Fig. 2)

*LOT DEPTH*: A mean horizontal distance from the front lot line to the rear lot line.

*LOT, DOUBLE FRONTAGE*: An interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of row of double frontage lots, one street may be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. See Lot, Through.

*LOT, INTERIOR*: A lot other than a corner lot. Any portion of a corner lot more than one hundred twenty (120) from the “corner” measured along a front street lot line, shall be considered an interior lot, provided such portion is of sufficient width, length, and area to meet the minimum requirements of the zoning district in which it is located. (Fig. 2)

*LOT LINES*: The property lines bounding the lot.

*LOT LINE, FRONT*:. Any lot line which is a street line except that in the case of a corner lot, the front line is the shorter of the two intersecting lines. In the case of a double frontage lot, all lot lines which are street lines shall be considered front lot lines unless otherwise designated in the plat.

*LOT LINE, REAR:* Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular shaped lot, a line ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of the rear yard.

In cases where none of these definitions are applicable, the Building Commissioner shall designate the rear lot line.

*LOT LINE, SIDE:* Any lot line which is not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

*LOT LINE, STREET OR ALLEY:* A lot line separating the lot from the right-of-way of a street or an alley.

*LOT OF RECORD:* A lot which is part of a subdivision of a lot or a parcel described by metes and bounds, the descriptions of which have been so recorded in the Office of the Recorder of Deeds of Porter County, Indiana.

*LOT, THROUGH:* A lot other than a corner lot with frontage on more than one street. See Lot, Double Frontage.

*LOT WIDTH:* The horizontal distance between the side lot lines, measured at the two points where the building line, or setback, intersects the side lot lines.

*MANUFACTURED HOME.* A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code of Indiana Public Law 360, Acts of 1971, as promulgated by the Indiana Administrative Building Council. Type I manufactured homes are defined in Article XI, Manufactured Homes.

*MANUFACTURED HOME PARK or SUBDIVISION.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which homes are affixed before the effective date of this definition; and any expansion of an existing park or subdivision that includes the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads).

*MASTER DRAINAGE PLAN.* The comprehensive drainage plan, as adopted and amended by the Board of Public Works and Safety and the Plan Commission, which guides said Board and Commission in their decisions concerning stormwater runoff.

*MAXIMUM LOT COVERAGE.* The percentage of the total area of a lot or parcel that may be covered with buildings, parking areas, streets, roadways, drives, walkways, tennis courts, or any other concrete, asphalt, or hard surface impervious material.

*MINI-WAREHOUSE.* An enclosed facility divided into multiple units no larger than 8,000 cubic feet per unit used exclusively for the storage of goods, wares, and merchandise, whether for owner or others, whether public or private, that are stored for hire.

**MOBILE HOME.** A transportation structure larger than three hundred and twenty (320) square feet, designed to be used as a year round residential dwelling and built prior to enactment of the federal Manufactured Housing Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15, 1976.

**MOBILE HOME PARK.** A parcel or tract of land not less than three acres in size developed with facilities for locating mobile homes, provided each mobile home contains a kitchen, flush toilet and shower.

**MOTEL.** A series of attached, semi-detached, or detached rental units containing bedroom, bathroom and closet space, and in which kitchen or cooking facilities may be provided. Units shall contain not less than two hundred fifty (250) square feet of floor space, provided however, that for those units with kitchens or kitchenettes, a total of three hundred (300) square feet of floor space in each rental unit shall be provided.

**MOTOR FREIGHT TERMINAL.** A building or premise in which freight is received or dispatched by motor vehicle.

**NONCONFORMING USE.** Any use of land or a structure, or portions thereof, which does not conform to the use regulations of the zoning district in which it is located, provided however, that said use was in existence on the date of adoption of this Ordinance or subsequent amendments thereto which directly affect the land or structure in question. Violations of existing regulations shall not hereafter be deemed legal nonconforming uses.

**NOXIOUS MATTER.** 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.

**NURSERY OR DAY CARE CENTER.** An agency, organization, or individual providing daytime care to five (5) or more children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult.

**NURSING HOME, SHELTER CARE CENTER, OR REST HOME.** An establishment for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorder, but not including facilities for the treatment of sickness or injuries or for surgical care.

**OCCUPANCY.** Residence in a building or part of a building as an owner or tenant, or as a member of tenant's or owner's family.

**OCCUPIED SPACE.** The total area of earth horizontally covered by a structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

**OCTAVE BAND.** A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

**ODOROUS MATTER.** Any matter or material that yields an odor which is offensive in any way.

**OFF-STREET PARKING AREA.** Land which is improved and used, or a structure which is designed and used exclusively for the storage of passage motor vehicles, either for accessory off-

street parking spaces or commercial off-street parking spaces when permitted herein by district regulations.

**OFF-STREET PARKING LOT.** A lot, or portion thereof, devoted to parking spaces for motor vehicles along with adequate drives and aisles for maneuvering to provide access for entrance and exit for the parking of more than two automobiles.

**ONE AND TWO FAMILY DWELLING CODE.** The nationally recognized model building code prepared by the Council of American Building Officials, adopted by the Indiana Administrative Building Council (ABC) and, which includes those supplements and amendments promulgated by the ABC.

**OPEN AIR BUSINESS.** Open air businesses shall include the following uses when said uses are operated for a profit and not conducted from a wholly enclosed building:

- a. Bicycle, trailer, motor vehicle, boat, or home equipment sale or rental services.
- b. Outdoor display and sale of garages, swimming pools, and similar uses.
- c. Retail sale of fruits, vegetables, and perishable foods.
- d. Retail sale of trees, shrubbery, plants, flowers, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- e. Tennis courts, archery courts, shuffleboard, horseshoe courts, children's amusement park or similar recreation uses.

**OPEN FRONT STORE.** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter said structure.

**OPEN SPACE.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Such areas may be improved with only those buildings, structures, streets, and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

**PARKING SPACE.** An area not less than nine (9) feet wide by twenty (20) feet long, which is designed or used for the parking of one automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

**PARTICULATE MATTER.** Dust, smoke or any form of airborne pollution in the form of minute separate particles.

**PERFORMANCE STANDARD.** A criteria established to control smoke and particulate matter, noise, odorous matter, toxic matter, vibration, fire and explosion hazards, glare and radiation hazards generated by, or inherent in, uses of land or buildings.

**PLAN COMMISSION.** The City of Valparaiso Plan Commission.

**PLANNED UNIT DEVELOPMENT (PUD).** The development of an area of land as a single entity for a number of dwelling units or a number of uses according to a plan, which does not correspond in lot size, bulk, or type of dwelling, allowed use, density, lot coverage, or required open space to the regulations otherwise required by this Ordinance for the district in which the PUD is located.

*PORCH, ENCLOSED.* A covered entrance to a building or structure which restricts the free entry of air, natural light, or view by means of permanently installed fixtures, and which projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

*PORCH, OPEN.* A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof and railing which may be attached thereto, and which projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

*PROPERTY LINES.* The lines bounding a lot, as defined herein.

*PUBLIC WAY.* Any sidewalk, street, alley, highway or other thoroughfare dedicated to the use of the public.

*PUBLIC UTILITY.* Any person, firm, corporation or municipal department duly authorized to furnish, under public regulation, to the public, electricity, gas, steam, telephone, telegraph, transportation and water.

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

*RECREATIONAL VEHICLE.* A portable vehicular structure not built to 1974 federal standards for mobile homes or the ANSI 119.1 Mobile Home Design and Construction Standards, as amended, designed for travel, recreational camping or vacation purposes, either having its own motor power or mounted onto or drawn by another vehicle, and including but not limited to travel and camping trailers, truck campers and motor homes. A vehicle which is built on a single chassis, is 400 sq. feet or less when measured at the largest horizontal projections, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as quarters for recreational camping, travel, or seasonal use.

*REGULATORY FLOOD.* That flood having a peak discharge which can be expected to 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 State of Indiana. This flood is equivalent to flood have a probability of occurrence of one (1) percent in any given year.

*REGULATORY FLOOD PROFILE.* A longitudinal profile along the thread of a stream showing the maximum water surface attained by the regulatory flood.

*RENGELMANN CHART.* A chart which is described in the U.S. Bureau of Mines, Information Circular 6888, and on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke.

*RESEARCH LABORATORY.* A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

*RETENTION POND.* A stormwater storage area that is designed and maintained to temporarily contain water only when excess stormwater occurs and to permanently hold an additional

volume of water at a level which is at or below the discharge structure of such storage area. A retention pond is the same as a wet-bottom stormwater storage area.

*RIGHT-OF-WAY.* The area needed for the construction of a complete street, including the road bed, curb, gutter, parkway, sidewalk, and side ditch, if needed. The right-of-way generally extends from the inner side of the sidewalk to the inner side of the sidewalk across the street.

*ROOMING HOUSE.* A single dwelling unit, owner-occupied, with one cooking facility and no more than two roomers unrelated to owners.

*SETBACK.* A line established by this Ordinance, generally parallel with and measured from the lot line (property line), defining the limits of a yard in which no NEW building, other than permitted accessory building or structure may be located above ground, except as otherwise provided in this Ordinance.

*SEXUALLY ORIENTED ESTABLISHMENT.* Any use of property available to the public, whether for profit or not, that: a) involves nude or topless dancing; b) predominantly advertises and offers material and/or items that depict and/or are generally used in sexual activity; or, c) allows other similar activities that depict, describe, simulate, or relate to sexual activities. Not limiting the proceeding, such shall also include any: 1) bookstore/shop in which the primary type of material offered is of a sexual nature; 2) motion picture arcade/motion picture theater in which the predominant type of material shown depicts sexual acts; 3) cabaret/lounge/night club in which the predominant attraction is nude or topless dancing; 4) health spa/sauna in which services of a sexual nature are offered to the public; including but not limited to any adult bookstore or supply store, adult hotel or motel, adult motion picture arcade, adult motion picture theater, adult cabaret, lounge, or night club, adult health spa/sauna, adult outdoor motion picture theater, adult live stage performing theater, adult model studio, adult novelty business, escort agency, massage parlor, sexual encounter center, or any other business that offers its patrons services or entertainment that provide nude dancing or other live recording performances that depict, describe, or relate to “specified anatomical areas” or “specified sexual activities.”

- A. Adult Arcade: A commercial establishment that offers coin-operated (or operation by any other form of consideration) electronically-, electrically-, or mechanically-controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices to show images to fifty (50) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting of specified anatomical areas or specified sexual activities.
- B. Adult Bookstore or Supply Store: An establishment having twenty five percent (25%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, video tapes, DVDs, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, cribbing, or relating to “Specific Sexual Activities” or “Specified Anatomical Areas”. Such establishments or the segment or section devoted to the

sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age

- C. Adult Cabaret, Lounge, Night Club: An establishment which features any of the following: topless dancers, and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees. Lingerie or bathing suit fashion shows, not infrequently features entertainers who display “specified anatomical areas” or features entertainers who, by reason of their appearance or conduct, perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in, explicit simulation of “Specified Sexual Activities.”
- D. Adult Health Spa/Sauna: A health spa, sauna or massage parlor that excludes minors by reason of age and/or provides steam bathes, heat bathing, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body, and is distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Area,” as defined herein. This definition does not include health spas, salons or similar establishments that offer massage therapy or other manipulation of the human body by a certified massage therapist.
- E. Adult Hotel/Motel: A motel, which rents rooms by the hour and presents visual displays, graphic materials, or activities that depict, describe or relate to “Specified Sexual Activities” or “Specified Anatomical Area.” Or a hotel, motel, or similar commercial establishment offering public accommodations for any form of consideration that provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes recorders, DVD recorders, slides, or other photographic reproductions for viewing or recording, characterized by an emphasis upon the depiction or description of “Specified Sexual Actives” or Specified Anatomical Areas” and/or rents leases or lets any room for less than a six (6) hour period, or rents leases or lets any single room more than twice in a twenty-four (24) hour period.
- F. Adult Motion Picture Arcade or Adult Live Stage Performing Theater: Any place to which the public is permitted or invited wherein coin or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to fifty (50) or fewer persons per machine at any one time, and where images so displayed are distinguished or characterized by an emphasis on matter depicting or describing “Specified Sexual Activities” or “Specified Anatomical Areas.”
- G. Adult Model Studio: Any place where models who display “Specified Anatomical Areas” are present to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by persons who pay some form of consideration or gratuity.

This definition shall not apply to any bona fide art school or similar educational institution or a professional photographic studio.

- H. Adult motion picture theater- An establishment emphasizing or predominantly showing sexually oriented movies.
- I. Adult Novelty Business: A business which has as a principal activity the sale of devices which stimulate human genitals or devices designed for sexual stimulation. OR An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing novelties, lotions and other items distinguished or characterized by their on or use for “Specialized Sexual Activities” or Specified Sexual Areas” or an establishment that holds itself out to the public as a purveyor of such materials based upon signage, advertising, displays, actual sales, exclusion of minors from the establishment’s premises or any other factors showing the establishment’s primary purpose is to purvey such material.
- J. Adult Outdoor Motion Picture Theater: A drive-in theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- K. Display publicly- The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content of character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and materials other than adult media are on display to the public.
- L. Escort Agency: A person or business who furnishes, offers to furnish, or advertises the furnishing of escorts for a fee, tip, or other consideration.
- M. Escort: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees to privately model lingerie, or to privately perform a striptease for another person.
- N. Establishment- Any business regulated by this Article IV section 497.
- O. Lingerie modeling studio- An establishment or business that provides the services of live models modeling lingerie to individual, couples, or small groups in a room smaller than 600 square feet.
- P. Massage Parlor: A place where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone using mechanical, therapeutic, or bathing devices or techniques for prurient or sexual purposes.

Q. Nudity or a state of nudity means:

- a. The appearance of a human anus or genitals, or female breast; or
- b. A state of dress, which fails to opaquely cover a human anus or genitals, or female breast.

R. Sexual Encounter Center: A commercial establishment that, as one (1) of its principal business purposes, offers for any from of consideration:

- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in the state of nudity.

S. Specified Anatomical Areas:

- a. Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below the point immediately above the top of the areola, and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

T. Specified Sexual Activities:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities set forth in subsections (a) through (c) above.

*SIGN.* A name, display identification, device, notice, figure, painting, drawing, message, placard, poster, work, bulletin board, symbol, letter numeral, emblem, trademark, flag or banner, pennant, or other illustration which is affixed to or painted or represented directly or indirectly upon a building, or other outdoor surface, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business and is visible from any alley, street, highway, sidewalk or other public way, whether such is placed out-of-doors or in windows. Each display surface of a sign shall be considered a separate sign. However, the word sign does not include any display of official, court or public office notices, nor the flag, emblem or insignia of a nation, political unit, school or religious group. The sign definition shall not apply to a sign located completely within an enclosed building unless the contents shall be

visible from the street. The identification and addresses of establishments on awnings and marquees shall not be considered signs.

*SOIL REMOVAL.* Shall mean removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay, rock or similar materials, or combination thereof, except such as is related to common household gardening and agriculture.

*STORY.* That portion of a building, except as hereinafter provided, between the surface of any floor and the surface of the floor next above, or if there be no floor above, it, then the space between the floor and ceiling next above it and including cellars and basements used for dwelling or business purposes. A “mezzanine” shall be deemed a full story when it covers more than fifty percent of the horizontal area of the story underneath said mezzanine or if the vertical distance from the floor next below it to the floor next above it is twenty-four feet or more.

*STORY, HALF.* The part of a building between a pitched roof and the uppermost full story, said part having a finished floor area which does not exceed one-half the floor area of said uppermost full story or a basement not used for dwelling or business purposes.

*STREET.* A thoroughfare which affords traffic circulation and a principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare, except an alley. Improved public streets are those constructed according to standards existing at the time of new construction.

*STREET, ARTERIAL.* A street designated on the Official Thoroughfare Plan as “arterial”. Such streets are designated to carry large volumes of traffic. Certain arterial streets may be designated as Limited Access Highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

*STREET, COLLECTOR.* A street planned to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways for traffic to reach arterial streets. Such streets are designated as “collector” on the Official Thoroughfare Plan.

*STREET, LOCAL COLLECTOR.* A local street lying within a subdivision which, although not shown as a collector on the Official Thoroughfare Plan, is built to collector specification and standards at the request of the Commission.

*STREET, LOCAL.* A street designated primarily to provide access to abutting properties.

*STRUCTURE.* Anything constructed or erected which requires permanent location on the ground or attachment to something having a permanent location on the ground.

*STRUCTURAL ALTERATIONS.* Any change, other than incidental repairs, which would prolong the life of the supporting members of a building such as the addition, removal, or alteration of bearing wall, columns, beams, girders or foundations.

*SUBDIVIDER.* A person engaged in developing or improving a tract of land which complies with the definition of a subdivision.

**SUBDIVISION.** The division of any parcel of land into two or more parcels, sites, or lots, any one of which is to be used for other than agricultural purposes. However, the following divisions of land shall not be considered as a subdivision.

1. The division of a tract of land into parcels not involving the provision of any new streets, widening of existing streets, easements for utilities or access, or street, sidewalk or utility improvements.
2. The division of land into parcels of ten acres or more not involving the provision of any new streets, widening of existing streets, easements for utilities or access, or street, sidewalk or utility improvements.

All subdivisions must meet the requirements of the Subdivision Control Ordinance.

**SWIMMING POOL.** Any body of water or receptacle for water having a depth of two feet or more at any point and maintained by the owner or manager for swimming purposes, to be governed under the regulations of the Municipal Code for the City of Valparaiso concerning swimming pools, and Article IV of this Ordinance.

**TEMPORARY BUILDING AND USE-Including Storage Trailers.** A structure or use permitted by the Building Commissioner to exist during periods of construction or rehabilitation of the main building or use for special events, and shall be used only during the period of construction or rehabilitation or special event. In the event more than one storage trailer is to be used, then a permit must be obtained from the Board of Zoning Appeals.

**THOROUGHFARE PLAN.** The development plan for the City of Valparaiso, now or hereafter adopted, which includes a major street and highway plan and sets forth the location, alignment, dimensions, identification and classification of existing and proposed streets, highways, and other thoroughfares. (See Article X).

**TOURIST HOME.** A dwelling with not more than four sleeping rooms in which overnight accommodations are provided or offered for transient guests for compensation, without provision for meals.

**TOXIC MATTER OR MATERIAL.** A substance (liquid, solid or gaseous) which by reason of an inherent deleterious property tends to destroy life or impair health.

**TRAILER.** Any vehicle, house-car, camp-car, or any portable or mobile vehicle on wheels, skids, rollers or blocks, either self-propelled or propelled by any other means, which is used or designed to be used for residential living, sleeping or commercial purposes and herein referred to as a "trailer".

**USE.** The purpose for which land or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.

**USABLE FLOOR AREA.** Usable floor area, for the purposes of computing required parking spaces, is that area used for or intended to be used for the sale of merchandise or services or for serving patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities shall be excluded from this computation of usable floor area.

*USABLE OPEN-SPACE.* Permanently reserved open space which is provided as required by this Ordinance for the use of residents of dwellings or the general public.

*USE-SPECIAL.* A “special use” as designated in the Indiana Statutes that has unusual operational, physical or other characteristics that may be different from those of the predominant permitted uses in a district, but which is a use that compliments and is otherwise or can be made compatible with the intended over-all development within a district. Compliance with special standards not necessarily applicable to other permitted uses or special uses in the district shall be required for a special use, as regulated in this Ordinance.

*USE -LAWFUL.* The use of any structure or land that conforms with all of the regulations of this Ordinance, or any amendment thereto, and which conforms with all of the codes, ordinances and other legal requirements as existing at the time of the enactment of this Ordinance, or any amendment thereto, for the structure or land that is being examined.

*YARD.* An open space that is on the same land with a building or group of buildings, which lies between the building or group of buildings and the nearest lot line or zoning lot line, and which is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

*YARD, FRONT.* A yard extending the full length of a front lot line, the depth of which is the minimum horizontal distance between the front lot line and the nearest part of the main building. (Fig. 3)

*YARD, REAR.* A yard extending the full length of a rear lot line, the depth of which is the minimum horizontal distance between the rear lot line and the nearest part of the main building. On lots abutting streams, the rear yard shall be considered the area between the main building and said stream.

*YARD, SIDE.* A yard extending along a side lot line between the front yard and the rear yard, the width of which is the minimum horizontal distance between the side lot line and the nearest part of the main building.

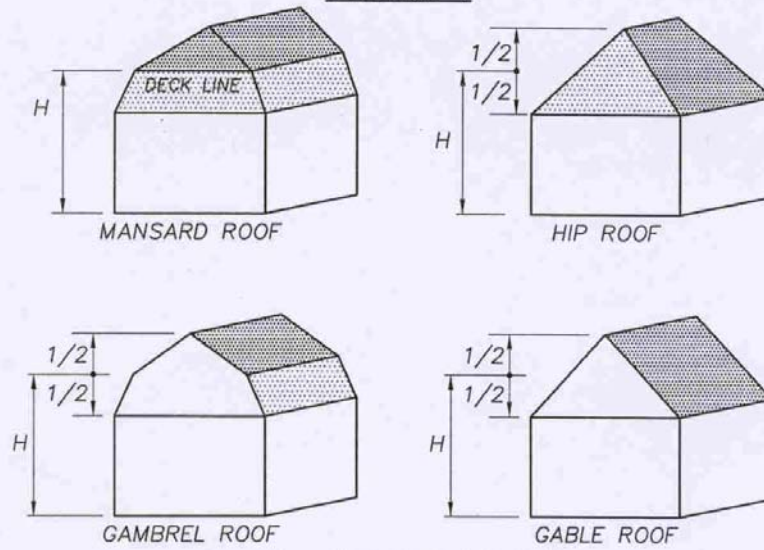
*ZONING DISTRICTS.* The districts into which the City of Valparaiso has been divided for zoning regulations and requirements as set forth in the Zoning District Map.

*ZONING LOT.* A parcel of land located within a single block and designated by its owner as a tract all of which is used or is to be used, developed, or built upon as a unit. A zoning lot, therefore, may or may not coincide with a lot shown in the official records of the Office of the Recorder of Deeds of Porter County, or on any recorded subdivision plat or deed.

A lot may be subdivided into two or more zoning lots, provided that all resulting zoning lots and all buildings thereon shall comply with all of the applicable provisions of this Ordinance and the Subdivision Regulation Ordinance. However, if such zoning lot is occupied by a non-complying building, such zoning lot may be subdivided only when such subdivision does not create a new non-compliance or increase the degree of non-compliance of such building or lot.

*ZONING MAP.* The map or maps incorporated into this Ordinance as part thereof, designating zoning districts.

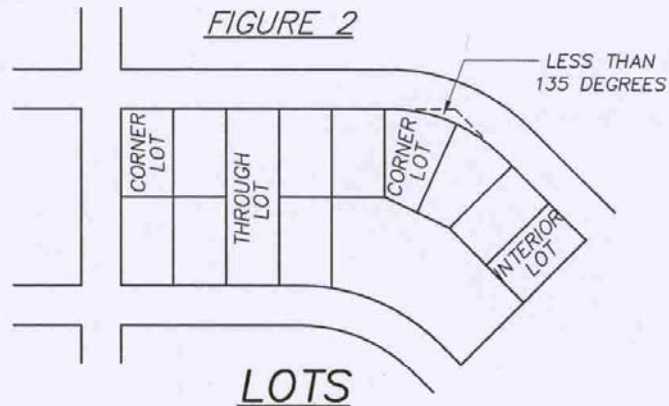
FIGURE 1



$H$  = HEIGHT OF BUILDING

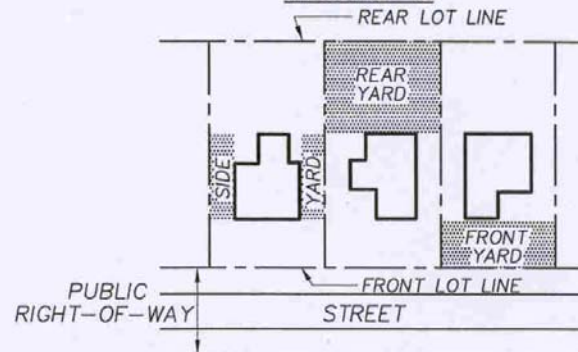
**BUILDING HEIGHT**

FIGURE 2



**LOTS**

FIGURE 3



**YARDS**

Part I  
Article III

**ESTABLISHMENT OF DISTRICTS**

**Section 300                    The Zoning Districts of Valparaiso**

The City of Valparaiso is hereby divided into sixteen (16) classes of zoning districts as follows:

|       |                                      |
|-------|--------------------------------------|
| OS    | Open Space District                  |
| R-1A  | Low Density Residential District     |
| R-1B  | Transitional Residential District    |
| R-1   | Single Family Residential District   |
| R-2   | Two Family Residential District      |
| R-3   | Multiple Family Residential District |
| R-4   | General Residential District         |
| R-14  | University/Multi-Family District     |
| C-1   | Neighborhood Commercial District     |
| C-2   | Community Commercial District        |
| C-2-T | Downtown Vicinity District           |
| C-3   | General Commercial District          |
| C-4   | Central Business District            |
| M-1   | Light Industrial District            |
| M-2   | Heavy Industrial District            |
| PUD   | Planned Unit Development             |

For the purpose of this Ordinance, the OS District shall be deemed to be the most restrictive district, and the M-2 District shall be deemed to be the least restrictive district.

**Section 301                    Zoning Map of Valparaiso**

The boundaries of these districts are also shown upon the map attached hereto and made part of this Ordinance, which map is designated as the Zoning District Map of the City of Valparaiso. The Zoning District Map on file in the City Hall of the City of Valparaiso, and all notations, references, and other information shown thereon are a part of this Ordinance and have the same force and effect as if said Zoning District Map and all such notations, references, and other information shown thereon were fully set forth or described in this Ordinance. In case of a discrepancy, the Zoning District Map on file in the City Hall shall govern.

Except where reference on the Zoning District Map is to a street or alley or a designated line shown by the dimensions on said Zoning District Map, the district boundary lines follow lot lines or such lines extended and the corporate limits of the City of Valparaiso, as they existed at the time of the adoption of this Ordinance.

Where a district boundary line as established in this Section or as shown on the Zoning District Map, divides a lot which was in a separate ownership and of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the

least restricted portion of such lot, under this Ordinance, shall be considered as extending to the entire lot, provided that the more restricted portion of such lot is entirely within twenty-five (25) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.

Questions concerning the exact location of district boundary lines which are not resolved by the application of the foregoing rules shall be determined by the Plan Commission according to rules and regulations which may be adopted by the Commission.

Part II  
Article IV

**GENERAL PROVISIONS**

**Section 400                      Scope of Regulations**

All buildings erected hereafter, all uses of land or buildings established hereafter, and all structural alterations or relocation of existing buildings occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, uses, or land shall be located.

1. **RELOCATION OF STRUCTURES.** Any building or structure which has been wholly or partially erected on any premises located within the City shall not be moved and/or be placed upon any premises in the City until a building permit for such removal shall have been received from the Building Commissioner. Any such building or structure shall conform to all the provisions of this Ordinance in the same manner as a new building or structure. No building or structure shall be moved into the City from outside the City limits unless permission is received from the Building Commissioner.
2. **PERMITS ISSUED PRIOR TO THE ORDINANCE.** Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, said 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 of Article V, Nonconforming Buildings and Land Uses.
3. **EXPIRATION OF USE PERMITS.** Where the Building Commissioner has issued a use permit, special use permit, or a permit for a variance pursuant to the provisions of this Ordinance, such permit shall become null and void unless work thereon is substantially underway within six (6) months of the date of such issuance of such permit by the Building Commissioner.
4. **SPECIAL USE PERMIT.** A special use permit shall be deemed to authorize only one (1) special use and shall expire if the special use shall cease for more than six (6) months for any reason.
5. **LOT WITHOUT STRUCTURES.** Where a lot is to be occupied for a permitted use without buildings, the side yards and front yards required for such lot shall be provided and maintained unless otherwise stipulated in this Ordinance; except that side yards shall not be required on lots used for garden purposes without buildings or structures, nor on lots used for public recreation areas.
6. **VOTING PLACES.** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a public election.

7. SUBDIVISION. No proposed plat of a new or redesigned subdivision shall hereafter be approved by the Commission unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this Ordinance, and unless such plat fully conforms with the statutes of the State of Indiana and the Subdivision Control Ordinance of the City of Valparaiso.
8. ESSENTIAL SERVICES. Essential services shall be permitted as authorized and regulated by law and other Ordinances of the City in any use district and are therefore exempt from the application of this Ordinance. The Board of Zoning Appeals shall have the power to exempt a public service corporation or a public utility from height or area requirements for any district in which such use is permitted and may permit the location of a public utility building, structure, or use in any use district if the Board shall find such use, height, area, building, or structure reasonable necessary for the public convenience.
9. CONDOMINIUMS. See definition in Article II.

**Section 405                      Placement, Orientation, and Entrances of Buildings on a Zoning Lot**

1. PLACEMENT OF BUILDINGS ON A ZONING LOT. The placement of a primary building in a perpendicular or sideways orientation on an interior or through lot zoning lot shall be prohibited.
2. ENTRANCES TO RESIDENTIAL UNITS. All single family residences and single building residential developments shall be designed such that a primary entrance faces a public street.
3. MINIMUM DWELLING UNIT WIDTH. Unless otherwise specified by this ordinance, the minimum width of a residential dwelling as it faces a street shall be 24 feet.

**Section 410                      Zoning of Streets, Rights-of-way, and Annexed Areas**

1. STREETS, ALLEYS, AND RAILROAD RIGHTS-OF-WAY. All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, or railroad rights-of-way. Where the center line of a street or alley, or railroad right-of-way serves as a district boundary, the zoning of such street or alley, or railroad right-of-way unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the center line of such street or alley, or railroad right-of-way.
2. ZONING DISTRICT CLASSIFICATION OF ANNEXED AREAS. Areas which shall be annexed to the City after this Ordinance shall take effect shall automatically be zoned OS, Open Space District, unless by action of the City Council other zoning district classifications shall be established for such areas on the date of annexation.

**Section 415                      Permitted Height**

1. EXCEPTIONS TO HEIGHT RESTRICTIONS. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established

for the district in which the building is located, except that penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire and parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, individual domestic radio, television aerials, water tanks, or similar structures may be erected above the height limits herein prescribed. No such structures may be erected to exceed by more than fifteen (15) feet the height limits of the district in which it is located; nor shall such structure have a total area greater than ten (10) percent of the roof area of the building; nor shall such structure be used for any residential, commercial, or industrial purpose than a use incidental to the main use of the building, except for radio and television towers.

2. **RADIO AND TELEVISION TOWERS.** All public broadcast radio, television and other transmitting or relay antenna towers may be permitted in a C-3, M-1, or M-2 district provided such use has access upon a major street. The setbacks for such towers from all abutting streets or adjacent property shall be a distance at least fifty (50) feet greater than the height of the tower.

**Section 420                      Number of Buildings on a Zoning Lot**

Not more than one (1) principal detached residential building shall be located on a zoning lot, except in the case of a Planned Unit Development of as otherwise provided in this Ordinance.

**Section 425                      Bulk Regulations**

1. **CONTINUED CONFORMITY WITH BULK REGULATIONS.** The maintenance of yards, parkways, 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.
2. **FLEXIBLE YARD REQUIREMENTS.** When the majority of the lots of record in a block front have been built upon at the time of the adoption of this Ordinance and where the front yards on the built-up lots are less than that required under the regulations in this Ordinance, the average front yard shall be established as the minimum required front yard for all the properties in that block front.

Upon approval of the Plan Commission and City Council, a developer shall be allowed to satisfy yard requirements by establishing "average" setbacks and varying front yards to encourage variety in site planning and discourage the monotony of uniformly placed buildings. However, in such instances, the average setbacks or yards shall be consistent with public safety and health.

3. **DIVISION OF ZONING LOTS.** No improved zoning lot shall hereafter be divided into two (2) or more zoning lots and no portion of any improved zoning lot shall be sold, unless all improved zoning 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.

4. **YARDS FOR CORNER LOTS.** The side yard width on the street side of a corner lot shall be not less than the required front yard for the district in which the lot is located.
5. **LOCATION OF REQUIRED OPEN SPACE.** All yards 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.
6. **REDUCTION OF YARDS.** No yard, now or hereafter provided for a building existing on the effective date of this Ordinance, shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this Ordinance for equivalent new construction.
7. **VACANT, THROUGH, AND CORNER LOTS.** On a vacant, through, or corner lot, either of the lot lines abutting a street right-of-way line may be established as its front lot line, except that where two or more through lots are contiguous and a front lot line has been duly established, the same street lot line shall thereafter be deemed to be the front lot line of all such contiguous lots. On a through lot, a front yard shall be provided along any lot line abutting a street.
8. **PROJECTIONS INTO YARDS.** The following projections shall be permitted in required yards:

*In All Yards:* Awnings and canopies; steps four (4) feet or less above grade, which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 24 inches or less into the yard; arbors and trellises; flagpoles; and fences, walls, and hedges subject to applicable height restrictions of this Article.

*In Front Yards:* One-story bay windows projecting three (3) feet or less into the yard; and overhanging eaves and gutters projecting 30 inches (30) or less into the yard; an open unenclosed porch or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet provided the enclosed porch or paved terrace will be at least the same setback from the front lot line as the average setback of similar existing structures on the same side of the block of street on which the proposed structure is located. In the case of paved terraces, it must be shown that stormwater runoff will not affect adjoining properties. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard a distance not to exceed four (4) feet.

*In Rear Yards:* Paved open off-street parking spaces; garages; one-story bay windows projecting three (3) feet or less into the yard; and overhanging eaves and gutters projecting thirty inches or less into the yard; residential laundry equipment; air conditioning units.

*In Side Yards:* Overhanging eaves and gutters projecting to within two (2) feet of the side lot line; air conditioning units.

#### **Section 435                      Minimum Lot Size**

Every residential building hereafter erected on a lot or parcel of land created subsequent to the effective date of this Ordinance shall provide a lot or parcel of land having not less than the

minimum area and width specified for the particular zoning district in which it is located. However, in any residential district, on a lot of record on the effective date of this Ordinance, a single-family dwelling may be established regardless of the size of the lot, providing all other requirements of this Ordinance are complied with.

#### **Section 440                      Frontage Road Requirements**

1. FRONTAGE ON A PUBLIC STREET. Every dwelling or principal building shall be located on a lot which shall front upon *an* improved public street. Modification of this requirement may be permitted by the Board of Zoning Appeals or the Plan Commission in cases where unusual topographic or geographic conditions exist or where a PUD or other development plan is developed for a group of residential, commercial, industrial, or institutional structures.
2. FRONTAGE ROADS. Whenever a proposed improvement borders on or contains a railroad right-of-way, or a limited access or controlled access highway, the developer shall provide a frontage road approximately parallel to such right-of-way which abuts such right-of-way in accordance with the specifications determined by the Board of Public Works and Safety of the City of Valparaiso. The Building Commissioner shall not issue an Improvement Location Permit or Occupancy Permit until and unless:
  - A. the developer constructs a frontage road as provided above, or
  - B. a frontage road is presently in place along the developer's frontage, or
  - C. the Board of Public Works and Safety determines that a frontage road is not necessary at the time of the issuance of the permit in this location, and the developer enters into an agreement with the Board of Public Works and Safety which provides for the future dedication of such right-of-way and the future construction of such frontage road at no expense to the City. The Board of Public Works and Safety may waive the frontage road requirement entirely if the physical features of the area to be served by such frontage road are not conducive to the construction of said frontage road or if other reasons are present to otherwise make the construction of such frontage road not feasible.

#### **Section 445                      Lots Adjoining Alleys**

In calculating the area of a lot that adjoins an alley, for the purpose of applying lot area requirements of this Ordinance, one half (1/2) of the width of such alley abutting the lot shall be considered as part of such lot, provided that in any R-1A, R-1, R-2, R-3, or R-4 districts, the rear yard depth actually on the lot shall be not less than fifteen (15) feet, nor less than ten (10) feet in any other district.

#### **Section 450                      Accessory Buildings**

Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

1. Where the accessory building or structure is structurally attached to a main building it shall be subject to and must conform to all the regulations of this Ordinance applicable to main buildings.
2. No detached accessory building or buildings shall occupy more than twenty-five (25) percent of the required rear yard plus forty (40) percent of an non-required rear yard area. No accessory building shall be located in the required front yard or exceed the ground

- floor area of the main building.
3. No detached accessory building shall have more than one (1) story nor exceed seventeen (17) feet in height, unless otherwise permitted as an accessory to business and manufacturing uses.
  4. A detached accessory building in residential districts shall be located only in a rear yard except for carports or garages which may be located at the rear or side of row or townhouse dwellings and apartment buildings after review by the Commission and subsequent approval by the Board of Zoning Appeals on findings that adequate light and air is assured to the dwelling units. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot to the rear of such corner lot.
  5. Detached accessory building or structure shall be located no closer to any other accessory or principal building than five (5) feet.
  6. Occupancy of temporary garages and accessory buildings is prohibited.
  7. The required rear yard setback of all accessory structures shall be no less than three (3) feet from the property line.
  8. The required side yard setback of all accessory structures shall be no less than three (3) feet from the property line.
  9. All accessory structures within residential zoning districts shall be constructed with architecturally compatible design to the residential primary or principal structure on the lot.
  10. The required setback a deck, patio, terrace, or porch that is attached to the primary structure by any means shall be required to maintain the minimum setback of the primary structure for the yard in which it is located.
  11. Accessory structures shall not be located in easement areas on a property unless express written permission has been granted by all users or grantors of said easement. A copy of such permission shall be provided to the Planning and Building Department prior to the issuance of permits or clearances for such structures.
  12. A gasoline dispensing and service station canopy shall be located no closer to the front lot or corner side yard lot line than 15 feet.
  13. Where permitted, outdoor sales shall be located on a paved surface, and shall not encroach upon any required vision clearance area as defined by this ordinance. Applicants must seek a zoning clearance permit to conduct such sales, and shall indicate the time period and location of such sale. A copy of written permission from the property owner shall accompany the application for a zoning clearance permit. The maximum time period for such activity shall not exceed ten weeks per calendar year per zoning lot. In cases where a tent is used for this type of activity, the applicant shall acquire a zoning clearance permit for the placement of such temporary structure. Temporary outdoor sales must be manned by an on-site representative at all times during the business day. Unmanned outdoor sales or sale items used primarily for advertisement purposes is not permitted.

#### **Section 460                      Building Grades**

1. GRADING FOR PROPER SURFACE RUNOFF. Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of

surface water to run away from the walls of the building. A sloping grade shall be maintained and established from the finished ground level line at the front of the building to the center of the front lot line at the sidewalk level. However, this shall not prevent the grading of a yard space to provide sunken or terraced areas, provided proper means are constructed and maintained to prevent the runoff of surface water from flowing onto the adjacent properties except as provided by natural drainage course or drainage easements.

2. **EXISTING ESTABLISHED GRADE.** When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the ground elevation around the new building. The yard around the new building shall be graded as far as possible, in such a manner as to meet existing grades and not to permit runoff surface water to flow into the adjacent properties except as provided by natural drainage course or drainage easements.

#### **Section 465                      Swimming Pools**

All swimming pools whether permanent or temporary, erected or developed in the city shall comply with all of the provisions for swimming pools in the Municipal Code and with the minimum side yard setback requirements of the zoning district. Access to residential pools shall be restricted by one (1) of the following means: (1) Walls or fencing not less than five (5) feet high and completely surrounding the pool and deck area with the exception of self-closing and latching gates and doors, both capable of being locked. (2) A power safety pool cover which shall: (A) provide a continuous connection between the cover and the deck, so as to prohibit access to the pool when the cover is completely drawn over the pool; (B) be mechanically operated by a key or key and switch such that the cover cannot be drawn open or retracted without the use of a key;

In addition, the pool fence must not be built within the required front yard or required corner lot side yard. Rear yard setback shall not be less than six (6) feet between the pool outside wall and the rear property line, or less than the established easement width at the rear property line, or less than six (6) feet between pool wall and any building on the lot. In ground, above ground, inflatable, and temporary pools shall not be located in a front yard or corner lot side yard.

For the purposes of this chapter, a pool shall be considered a basin capable of holding water for the purposes of swimming, bathing, or wading in excess of two feet in depth or height.

#### **Section 470                      Fences, Walls and Other Protective Barriers**

1. **APPROVAL BY BUILDING COMMISSIONER.** The erection, construction or alteration of any fence, wall, or other type of protective barrier shall be approved by the Building Commissioner for conformance to the requirements of the zoning district in which they are located and for conformance to the requirements of this Section.
2. **REQUIREMENTS FOR FENCES, WALLS, AND HEDGES.** Fences, wall, or hedges, which are not specifically required under the regulations for the individual zoning district, shall conform to the following requirements:
  - a. No fence, wall, or hedge in excess of six (6) feet, or less than three (3) feet in height shall be erected or maintained along the line dividing two lots or parcels of land or erected within any required side or rear yard. Fences, walls, and hedges of a maximum of eight

- (8) feet in height are permitted in rear or side yards within manufacturing zoning districts.
  - b. No fence, wall, or hedge shall be erected or maintained in the front yard more than four (4) feet in height or closer than six (6) inches to any public sidewalk.
  - c. All fences erected shall be of an ornamental type such as treated wood, painted wood, treated split rail, ornamental wrought iron, split rail, vinyl, brick, stone, open picket (with 40 % open space between pickets in any front or corner side yard), chain link (not permitted in any front or corner side yard), and similar materials commonly used in urban residential applications as deemed appropriate by the Planning and Building Department. Scrap lumber, plywood, sheet metal, plastic, or fiberglass sheets are expressly prohibited. Barbed wire, spikes, nails, or other sharp point or instrument on top or sides of such fence are prohibited. Welded wire, agricultural fencing, and chicken wire fences are not permitted.
  - d. Barbed wire cradles facing inward toward the property may be placed on top of fences enclosing public utility buildings, industrial properties, or wherever, in the opinion of the Building Commissioner, such are necessary or expedient in the interest of public safety or protection of property.
  - e. All fences shall be constructed with the finished side of the fence facing out toward the property line or neighboring property where applicable.
3. OBSTRUCTION OF VIEW AT INTERSECTIONS. No fence, wall, or structure, or planting shall be erected, established, or maintained on any corner lot within twenty (20) feet of the intersection of the street lot lines, except that shade trees are permitted where all branches are not less than eight (8) feet above the road level.
4. DUMPSTERS AND SIMILAR FACILITIES. a) All dumpsters, compactors and equipment of a similar nature, areas for placement of trash receptacles shall be concealed on three sides with an opaque fence or wall of design and color similar to that of the principal or primary structure on the property that is at least one foot higher than the items concealed b) Such equipment and facilities shall not be permitted to be located in a front yard.

#### **Section 475                      Greenbelt or Buffer Strips**

Wherever a greenbelt is required, it shall be made fertile and planted prior to occupancy for use weather permitting, and thereafter reasonably maintained with permanent materials to provide a suitable screen from adjacent properties in conformance with the following standards:

1. Minimum planting width shall be Fifteen (15) feet. On lots larger than two acres, the minimum planting width shall be 30 feet.
2. Plant materials shall be in sufficient density and height to provide for an effective screening of view on a year-round basis from adjacent properties. A mixture of evergreen and deciduous plant materials, which would include between 40% and 60% evergreen is required. Plant material shall be installed in alternating rows in order to achieve better coverage and screening.
3. The greenbelt requirements may be modified by the Board of Zoning Appeals, upon hearing, if it appears that there are practical difficulties or unnecessary hardship in the carrying out of the strict letter of such provisions, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

#### **Section 480                      Noise, Smoke and Waste Materials**

1. NOISE REGULATIONS. All uses must meet the standards concerning noise that are set forth in Section 2405, 3.h.
2. SMOKE REGULATIONS. All use must meet the standards concerning smoke and particulate matter that are set forth in Section 2405, 3.a.
3. REFUSE IN OPEN CONTAINERS. No garbage, filth, refuse, or other obnoxious matter shall be kept in open container or piled on the open ground. No business or industrial use shall permit waste materials, cans, cartons, etc. to be scattered over open ground. All waste materials must be periodically disposed of at least once in each thirty (30) day period.
4. WASTE RECEPTACLES. The occupant or occupants of every building where waste accumulates, and in case of a semidetached or apartment building, the owner, lessor or agent, shall cause to be provided for said building, kept clean, and in place, proper receptacles for said wastes, either stationary or portable.
5. STORAGE AND DUMPING OF WASTE MATERIALS. The use of land for the storage, collection, or accumulation of wood and other used materials, or for the dumping or disposal of scrap irons, junk automobiles, trucks, boats, machinery, tires, paper, garbage, rubbish or other refuse or of ashes, slag, or other industrial wastes or by-products shall not be permitted in any district, except under a Temporary Certificate from the Building Commissioner after approval of the City Planning Commission. The Certificate may then be issued upon the filing of an application accompanied by a suitable agreement and bond that such dumping or disposal will not pollute the waters of the City, cause stagnant water to collect or leave the surface of the land. At the expiration date of the permit, the land cannot be left in an unstable condition or unfit for the growing of turf or for other land uses permitted in the district in which such dumping occurs. The dumping of dirt, sand, rock, or other material excavated from the earth is permitted in any district provided the surface of such material is graded within a reasonable time in a manner preventing the collection of stagnant water and which leaves the ground surface in a condition suitable for the growing of turf or for other land uses permitted in the district.

#### **Section 490                      Placement, Re-configuration, Placement of Soil, Sand or Other Materials**

The use of any land for the placement of any fill, regarding, of the soil in place, or the excavation and/or removal of any soil, sand, or gravel is not permitted in any district except after the issuance of a Building Permit by the Building Commissioner. Prior to the issuance of the permit the applicant shall submit plans to the City Engineer showing the work to be done and demonstrating that the work will not result in the removal of soil below the elevation of the nearest existing or proposed street, that the work will not cause water to stand and become stagnant, that the work will not cause drainage problems for the project site or any adjacent site, and that provisions have been made for the appropriate erosion control and restoration of the site with vegetation.

The Permit may be issued after the City Engineer has approved the plans and any necessary bond or agreement with the Board of Public Works and Safety. This regulation shall not prohibit the normal removal or placement of soil for the construction of an approved building or structure when plans for said construction have been approved and permits issued under the normal permits process.

**Section 495                      Restoration of Unsafe Buildings**

Nothing in this Ordinance shall prevent the strengthening or restoration to a safe condition of any part of any building or structure declared unsafe by the Building Commissioner. However, if the building or structure is a non-conforming use, any alteration shall be subject to the provisions in Article V, Non-Conforming Buildings and Land Uses.

**Section 497                      Sexually-Oriented Establishments****Intent**

The purpose of this section is to set reasonable and uniform regulations to prevent the concentration of sexually oriented businesses or adult uses and their location in areas deleterious to the community of Valparaiso, and to regulate the signs of such businesses to control their adverse effects and prevent inappropriate exposure to the community. The provisions of this ordinance are intended to prevent deterioration or blight of residential neighborhoods, by requiring specific locations for such operations. The City recognizes that important and substantial government interest provide a constitutional basis for reasonable regulation of the time, place and manner under which sexually oriented business operate, therefore the City has determined that persons seeking to operate sexually oriented businesses shall be required to observe specific location requirements before they commence business, as provided for in this article.

**Development Standards**

The following provisions shall apply to all sexually oriented establishments:

1. Such uses shall only be permitted in M-1 and M-2 Manufacturing Districts.
2. The following separation standards shall apply to all sexually-oriented establishments
  - a. No such use shall be located within a one thousand (1,000) foot radius of any other such use.
  - b. No such use shall be located within a one thousand (1,000) foot radius of any parcel located in a residential zoning district or portion of a planned unit development designated for residential purposes whether inside or outside of the corporate boundaries of the City of Valparaiso
  - c. No such use shall be located within one thousand (1,000) foot radius of any school whether public or private, day care home or center or nursery, religious institution, park, playing field, pool or billiard hall, coin-operated amusement center, dance center, ice or roller-skating rinks or parks or other public recreational facility typically catering to minors, indoor or outdoor theaters, art gallery, museum, libraries, other areas where large numbers of minors travel or congregate, and entryways/gateways to the City.

The aforementioned separation and radius standards shall be measured in a straight line from the closest points between property line to property line, without regard to intervening structures or objects, for sexually-oriented establishments that are located

on a single tenant parcel. If said establishment is located within a multi-tenant building the measurement shall be from the property line of the entire multi-tenant premises to the property line of other uses, without regard to the intervening structures or objects, which requires the separation.

3. No such use shall be allowed within a block or portion thereof where a residential use exists
4. Not more than one such use shall be located in one building or on one parcel or zoning lot.
5. No adult use shall be permitted to operate as an accessory to an otherwise permitted use for a particular use unless it is permitted by this ordinance.
6. No sexually oriented establishment shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified anatomical areas and or specified sexual activities by display, decorations, signage, show window, or other opening from any public right of way.
7. Signage for such establishments shall be subject to the applicable standards as set forth in Section 910 Signs in industrial districts;
  - a. Signage for such establishments shall not display any pictures, photographs, silhouettes, drawing, or other pictorial representations of a sexually oriented nature, and may contain only the legal name and address of said establishment.

#### **Section 498 Dog Runs and Enclosures**

In all zoning districts within the City of Valparaiso, a dog pen/run shall be allowed only in the rear yard and such pens shall be limited in size to a maximum of fifteen (15) feet wide and twenty (20) feet long. Such fence shall be placed no closer than ten (10) feet to any side yard or rear yard property line and shall not be higher than six (6) feet, and if there is a roof enclosure, it must be of an open mesh type material.

A dog pen/run shall be defined as a fenced-in area, designed and use for keeping a dog or dogs within a specific fenced area.

A fence that encompasses the entire rear yard and is used for purposes other than keeping dog (s) confined and meets all applicable regulations of this Section shall not be considered a dog pen/run.

Part II  
Article V

**NON-CONFORMING BUILDING AND LAND USE**

Any lawful use of land or building existing at the date of passage of this Ordinance and located in a district in which it would not be permitted as a new use under the regulations of this Ordinance, is hereby declared to be a "nonconforming use" and not in violation of this Ordinance at the date of adoption of the Ordinance; provided, however, that a nonconforming use shall be subject to, and the owner shall comply with the following regulations:

**Section 500                      Change**

A nonconforming use in a building or structure may be changed to another nonconforming use of the same or greater restriction provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a nonconforming use. For this purpose the OS District shall be considered the district of greatest restriction, each district following thereafter in the text of this Ordinance shall be considered of successively lesser restriction.

**Section 505                      Nonconforming Use of Land - Continuation of Use**

The nonconforming use of land, where no buildings or structure is involved, which exists when this Ordinance becomes effective, may be allowed to continue provided that:

1. No such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property.
2. If such nonconforming use of land or any portion thereof is discontinued or changes, any future use of such land shall be in conformity with the provisions of this Ordinance.

**Section 515                      Extension Prohibited**

A nonconforming use may not be expanded or extended throughout other portions of the building. If such nonconforming use or portion thereof is discontinued or changed to a nonconforming use, any future use of such building or portion thereof, shall be in conformity to the regulations of the district in which such building is located.

**Section 520                      Moving**

No nonconforming use of a building may be moved to any other part of a parcel of land on which a nonconforming use was conducted at the time of the adoption of this Ordinance.

**Section 525                      Alterations**

No nonconforming building shall be enlarged or structurally altered except to make it a conforming building or except with requirements of health and safety laws or ordinances; provided further that the cost of such work shall not exceed thirty (30) percent of the assessed valuation of such building or structure at the time such work is done.

**Section 530                      Restoration**

Any nonconforming building which has been destroyed or damaged by fire, explosion; act of God, or by public enemy to the extent of fifty (50) percent or more of its fair market value at the time such damage occurred shall thereafter be made to conform with the provisions of this Ordinance. Where more than fifty (50) percent of the fair market value of the building remains after such damage, the nonconforming building may be restored, provided that such restoration shall be subject to the approval of the Board of Zoning Appeals. Said restoration shall be commenced within one (1) year of the date of such partial destruction and shall be diligently carried on to completion.

**Section 535                      Discontinuance or Abandonment**

When any nonconforming use of land or a structure thereon has discontinued or ceased for a period in excess of 180 days or if a structure remains unused or unoccupied for a continuous period in excess of 180 days the nonconforming use shall be considered abandoned and the building or land shall therefore be used only for a conforming use. A nonconforming use shall be presumed to be abandoned when the intent of the owner or occupant to discontinue the nonconforming use is apparent to the reasonable person.

**Section 545                      Certificate of Occupancy**

1. At any time after adoption of this Ordinance or amendments thereto, should the Building Commissioner become aware of a nonconforming use, the owner of a nonconforming use shall be notified by the Building Commissioner of the provisions of this section, and that his property constitutes a nonconforming use. Within thirty (30) days after receipt of the foregoing notice, the use shall be deemed to be and is hereby declared to be in violation of this Ordinance. The Building Commissioner and the City Attorney shall take appropriate action to enjoin such violation.
2. If the Building Commissioner shall find, upon reviewing the application for a Certificate of Occupancy, the existing use illegal or in violation of any other ordinance or law; and find that the building for which the Certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the Building Code or the Zoning Ordinance in effect at the time of construction or alteration, the Building Commissioner shall not issue the Certificate of Occupancy but shall declare such use to be in violation of this Ordinance.
3. The Certification of Occupancy issued by the Building Commission for nonconforming use shall state that the use may be continued or that the use must be discontinued.

**Section 560                      Change of Tenancy or Ownership**

There may be a change in tenancy, ownership, or management of an existing nonconforming use, provided all regulations applicable to nonconforming uses are observed.

**Section 565                      Removal of Nonconforming Use, Building or Structure**

The Commission may, from time to time, recommend to the City Council the acquisition of such private property that does not conform in use or structure to the regulations and restrictions of the various districts defined in this Ordinance and the subsequent removal of such use or structure.

Whenever the City Council has under advisement the acquisition, purchase, condemnation or other action as provided by law concerning any nonconforming building, structure or use, a preliminary public hearing thereon shall be held before that body, provided that no less than fifteen (15) days notice of time, place, end purpose of such public hearing shall first be published in a paper circulating in the City of Valparaiso, and that the City Clerk shall send by mail addresses to the respective owners of any such properties at the addresses given in the last assessment roll, a written notice of the time, place and purpose of such hearing; and provided further that, if the cost and expense or any portion thereof is to be assessed to a special district, the Township Assessor shall be directed to furnish the names of the respective owners of the property in such district, and addresses thereof in the last assessment roll; and the City Clerk shall also send the said notice to the said respective owners in the tentative assessment district.

Part II  
Article VI

**REQUIREMENTS FOR STORM DRAINAGE AND FLOODPLAINS**

This Article has been deleted per Ordinance 43-2007 and its revised form is available in Chapter 55 of the Valparaiso City Code

PART II  
ARTICLE VII

**OFF STREET PARKING AND LOADING REQUIREMENTS**

**Section 700                      General Off-Street Parking Requirements**

Off-street vehicular parking in conjunction with all land or building uses shall be provided, prior to the issuance of a Certificate of Occupancy as herein prescribed. In all zoning, off-street parking requirements for the storage and parking of motor vehicles for the use of occupants, employees, and patrons of any building erected, altered, or extended after the effective date of this Ordinance, shall be provided as prescribed in this Article.

**1. CALCULATION OF REQUIRED PARKING SPACES**

When units of measurements determining the number of required parking spaces results in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.

**2. LOADING SPACE**

The loading space as required in Section 780 of this Article shall not be construed as supplying off-street parking space.

**3. LOCATION OF PARKING**

A. Non-Residential - Off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured without crossing any major thoroughfare, from the nearest point of the build/rig to the nearest point of the off-street parking facilities and such off-street parking shall be provided either by an off-street parking lot or by a private garage. In the case that off-street parking is provided in a private garage, the maximum height of such garage shall be twenty (20) feet and may occupy the required side or rear open space, but shall not be closer than twenty (20) feet from a lot line in a residential district.

B. Residential - Residential off-street parking spaces shall consist of a parking strip, driveway, or combination thereof and shall be located on the premises they are intended to serve, not closer than three (3) feet from any street lot line. Garages and carports shall conform to the appropriate regulations of the zoning district in which they are located.

Driveways leading to garages or carports (including those for multiple family and two family uses) shall be designed so as to provide a minimum of a 9' by 20' space for off-street parking, and to avoid the parking of vehicles across pedestrian sidewalks, walkways, or pathways, whether public or private.

**4. USES NOT SPECIFIED**

For uses not specifically mentioned in this Article, the requirements for off-street parking facilities for a use which is mentioned, and which use is most similar interpreted by the Board of Zoning Appeals shall apply. For mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses in one building or on the same lot.

**5. EXTENT OF CONTROL**

The off-street parking and loading requirements of this Article shall apply as follows:

A. New Structures and Uses: All buildings and structures erected or enlarged and land uses initiated after the effective date of this Ordinance shall provide accessory off-street parking or loading facilities as requested hereinafter for the use thereof, except that a

building or structure for which a building permit has been issued prior to the effective date of this Ordinance shall not be required to furnish parking or loading facilities as required hereinafter if construction is begun thereon within six (6) months of the effective date of the building permit. However, the parking and loading requirements in effect at the time of issuance of the building permit shall be met.

- B. Decrease in Required Parking - When a building or structure is altered and undergoes a decrease in number of dwelling units, gross floor area, seating capacity, number of employees, or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said decreases would result in a requirement for fewer total parking or loading spaces through application of the provisions of this Ordinance thereto, parking and loading facilities may be reduced accordingly.
- C. Increase in Required Parking: When a building or structure shall undergo any increase in number of dwelling units, gross floor area, seating capacity, or other units of measurement specified herein for receipted parking or loading facilities, and further, when said increase would result in a requirement for additional total parking or loading spaces through application of the provisions of this Ordinance thereto, parking and loading facilities shall be increased accordingly, provided that existing parking or loading facilities shall be so increased that the facilities would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this Ordinance to the entire building or structure as modified.
- D. Change in Off-street Parking Designation: Any area once designed as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere. Upon the abandonment of such area as a parking lot for a period of six (6) months, it shall revert to its immediate prior use classification.
- E. Existing Off-street Parking: Off-street parking existing at the effective date of this Ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or prior use.

#### 6. USE OF PARKING

The required off-street parking shall be for occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited. This requirement shall not be interpreted to prohibit the posting of a "For Sale" sign in a personal vehicle which is used regularly by a resident of the structure for which the parking space is an accessory

#### 7. JOINT USE OF PARKING

Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. Where the required number of parking spaces exceeds one hundred (100) cars, the requirements may be reduced by twenty (20) percent.

In cases of dual functioning of off-street parking where operating hours do not overlap, the Board of Zoning Appeals may grant an exception. Parking, spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums and other places of public assembly, stores, office buildings and industrial establishments located within five hundred (500) feet of a church as measured along lines of public access, that are not normally used

between the hours of 6:00 am and 6:00 pm on Sundays, and that are made available for other parking, may be used to meet not more than seventy-five (75) percent of the off-street parking requirements of a church. There shall be a written agreement between all parties concerned where this arrangement, or other similar situations and arrangements, can be made.

## 8. LIGHTING

Lighting facilities provided for off-street parking areas shall be so arranged as to reflect the light away from the adjacent properties and public thoroughfares.

### **Section 720                      Off-Street Parking Requirements By Use**

The amount of required off-street parking space for new uses or buildings and additions to new and existing buildings as specified above shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use in accordance with the provisions of the previous Section.

| <b>USE</b>                                                                                                                                        | <b>REQUIRED<br/>PARKING<br/>SPACES</b> | <b>PER EACH UNIT OF<br/>MEASURE AS FOLLOWS</b>                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| Banks, post offices, business offices, or professional office of lawyers, architects, engineers, or similar or allied professions                 | 1                                      | 200 square feet of usable floor space                                                                                     |
| Beauty parlor or barber shops                                                                                                                     | 3                                      | Each barber and/or beauty shop operator                                                                                   |
| Bowling alleys                                                                                                                                    | 5                                      | Each bowling lane                                                                                                         |
| Churches with fixed seats/pews                                                                                                                    | 1                                      | 8 feet of pew or 4 seats                                                                                                  |
| Clubs and lodges                                                                                                                                  | 1                                      | Each 300 square feet of area devoted to club or lodge activities, plus one additional space per each 3 employees          |
| Dance halls, exhibition halls, assembly halls, Billiard halls, churches without fixed seats, and skating rinks                                    | 1                                      | 100 square feet of floor space                                                                                            |
| Elementary schools and intermediate schools                                                                                                       | 1                                      | 2 teachers, employees or administrators in addition to the requirements of the auditorium or assembly hall                |
| Establishment for sale and consumption on the premises of beverages, food or refreshments                                                         | 1                                      | 100 square feet of usable floor area                                                                                      |
| Furniture & appliances, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, clothing & shoe repair | 1                                      | 800 square feet of usable floor area exclusive of the usable floor area occupied in processing or manufacturing for which |

|                                                                                                                                                              |                                |                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| & laundry, motor vehicle sales showroom, hardware stores, wholesale stores & machinery stores                                                                |                                | requirements are listed below                                                                                                                                                                                                  |
| <b>USE</b>                                                                                                                                                   | <b>REQUIRED PARKING SPACES</b> | <b>PER EACH UNIT OF MEASURE AS FOLLOWS</b>                                                                                                                                                                                     |
| Homes for the aged, convalescent or nursing homes, sanitariums and children's home                                                                           | 1                              | 6 beds, plus one space for each staff or visiting doctor                                                                                                                                                                       |
| Hospitals                                                                                                                                                    | 1                              | Each 3 hospital beds, plus one space for each 3 employees, plus one space for each staff doctor                                                                                                                                |
| Hotels and Motels                                                                                                                                            | 1                              | Guest room, plus one space for each 3 employees, plus one space for each 500 square feet of floor area devoted to generative activities, such as bars and dining room                                                          |
| Industrial establishments including manufacturing, research and testing laboratories, creameries, bottling works, printing, plumbing or electrical workshops | 1                              | 2 employees computed on the basis of the greatest number of persons employed at any one period during the day or night. Space on site shall also be provided for all construction workers during periods of plant construction |
| Lodging and boarding houses, fraternities, dormitories and cooperative households occupying single-unit dwellings                                            | 1                              | For each 2 beds, plus 1 space for each manager and/or employee                                                                                                                                                                 |
| Mortuary establishments and funeral homes                                                                                                                    | 1                              | 50 square feet of floor space in the slumber rooms, funeral service rooms                                                                                                                                                      |
| Professional offices for doctors and dentists                                                                                                                | 1                              | 250 square feet of floor space, or a minimum of not less than 4 spaces, whichever is greater                                                                                                                                   |
| Single room occupancy units and buildings                                                                                                                    | 1                              | For each unit, plus 1 space for each nonresident manager and/or employee                                                                                                                                                       |
| Residential - Single family                                                                                                                                  | 1                              | Dwelling unit                                                                                                                                                                                                                  |
| Residential - Two unit dwellings and multiple dwellings excluding motels and hotels                                                                          | 2                              | Dwelling unit                                                                                                                                                                                                                  |
| Retail store, except as otherwise specified herein                                                                                                           | 1                              | 150 square feet of usable floor area                                                                                                                                                                                           |
| Senior high school                                                                                                                                           | 1                              | 2 teachers, employees or administrators, and for every 10                                                                                                                                                                      |

|                                                   |                                |                                                                                              |
|---------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------|
|                                                   |                                | students in addition to the requirements of the auditorium or assembly hall                  |
| <b>USE</b>                                        | <b>REQUIRED PARKING SPACES</b> | <b>PER EACH UNIT OF MEASURE AS FOLLOWS</b>                                                   |
| Stadiums, sports arenas, auditoriums and theaters | 1                              | 4 seats or 6 feet of benches based on maximum seating capacity in the main place of assembly |
| Tourist homes                                     | 1                              | Guest bedroom                                                                                |

### **Section 750 Off-Street Parking Lot Layout, Construction and Maintenance**

Whenever an off-street parking lot is a requirement, it shall be laid out, constructed and maintained according to the following regulations:

1. Layout of Off-Street Parking.
  - A. Adequate ingress and egress to the parking lot by means of a clearly defined drive shall be provided for all vehicles.
  - B. All spaces shall be laid out in the dimensions of nine (9) by twenty (20) feet, or one hundred eighty (180) square feet of space, exclusive of area required in other parts of this Section.
  - C. All access drives and off-street parking facilities shall either be paved with concrete or with other approved surfacing material to adequately provide a durable and dust free surface.
2. Plans for Layout: Plans for the layout of the parking lot must be approved by the Building Commissioner. Plans for the layout of the parking lot shall show a total dimension across two (2) tiers of spaces and one (1) aisle (maneuvering lane) of at least the following for the various patterns:
  - A. 90 Degree Pattern - Sixty (60) feet for two (2) tiers of space including one (1) aisle (maneuvering lane), with the minimum aisle being twenty (20) feet in width.
  - B. 60 Degree Pattern - Fifty-five (55) feet for two (2) tiers of space including one (1) aisle (maneuvering lane), with the minimum aisle being fifteen (15) feet in width.
  - C. 45 Degree Pattern - Fifty (50) feet for two (2) tiers of spaces and one (1) aisle (maneuvering lane), with the minimum aisle being twelve (12) feet in width.
  - D. 45 Degree Herringbone Pattern - Forty-three (43) feet for two (2) tiers of spaces and one (1) aisle (maneuvering lane), with the minimum aisle being twelve (12) feet in width.
3. Setback Requirements:
  - A. Where the parking lot is contiguous to a residentially zoned district which has common frontage in the same block with the parking lot, there shall be established a setback line ten (10) feet from the front lot line.
  - B. Where a parking lot lies across the street and opposite a residentially zoned district wherein the lots front on such street, there shall be established a setback line ten (10) feet from the front lot line.
  - C. Where the parking lot lies across the street and opposite or contiguous to and in the same

block with residentially zoned property which has only side lot lines on the street, there shall be established a setback line ten (10) feet from the front lot line.

- D. Where the parking lot abuts rear property lines of a residentially zoned district, there shall be established a setback line of five (5) feet from the rear property line.
  - E. The setback requirements contained in this Section may be modified by the Board of Zoning Appeals with respect to the number of feet required in any case in which it appears an undue hardship will arise from the strict enforcement of the distance requirements in this Section.
4. Buffer Strip Requirements: The land between the setback line and the lot line of the parking lot will be maintained as a buffer strip and subject to the following requirements and the requirements of Article IV, Section 475:
- A. There shall be bumper stops or wheel chocks of concrete or similar permanent material provided to prevent any vehicle from projecting over the buffer strip.
  - B. Wherever a screen planting is not practical or reasonable, a continuous non-pierced masonry wall of specified height and materials may be substituted for buffer strips if approved by the Commission with recommendation to, and approval of, the Board of Zoning Appeals.
  - C. Where the parking lot boundary adjoins property zoned for residential use and when an evergreen screen planting or other similar type of planting can be used to screen such parking lot without hindering the use of the parking lot then such screen planting shall be required. In addition a suitable chain link wire fence not less than three nor more than six feet in height shall be provided adjacent to said boundary line, but shall not extend into the required front open space, and the same shall be erected within thirty (30) days of the completion of the parking lot surface.

The criteria that shall be used to determine whether such a screen planting will be required, shall be:

- 1.) That the adjacent property zoned for residential use consists of more than one residential lot and is shown in the Comprehensive Plan to be utilized for residential purposes.
  - 2.) That the screen planting will not eliminate any required parking spaces and will not create any potential visual or ingress or egress situations.
5. Drainage: All open off-street parking areas except for parking spaces accessory to a single-family dwelling shall be designed so as to permit such parking spaces to be used as temporary storm water detention areas.
6. Residential Driveway Design: Driveways leading to garages or carports (including those for multiple family and two family uses) shall be designed so as to provide a minimum of a 9' by 20' space for off-street parking, and to avoid the parking of vehicles across pedestrian sidewalks, walkways, or pathways, whether public or private.

#### **Section 780                      Off-Street Loading and Unloading**

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage warehouse, goods display, department store, wholesale store, market,

hotel, hospital, mortuary, laundry, dry cleaning establishment, or other uses similarly involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading in order to avoid undue interference with public use of the streets or alleys. Such Off-Street loading or unloading facilities shall be required in accordance with the following requirements:

- A. For hotels or apartment hotel buildings wherein there are contained exhibition halls, convention halls, auditoriums, office facilities or retail shops, - one off street loading and unloading space for the first forty thousand (40,000) square feet of gross floor area plus one such additional space for each additional twenty thousand (20,000) square feet.
- B. For hospitals, sanitariums or nursing homes containing twenty thousand (20,000) to one hundred thousand (100,000) square feet of gross floor area, - one off street loading and unloading space plus one additional such space for each additional one hundred thousand (100,000) square feet.
- C. For buildings containing bowling alleys, taverns, restaurants, or any retail shops or a combination of such uses in one building and having ten thousand (10,000) to one hundred thousand (100,000) square feet of gross floor area, - one off street loading and unloading space, plus one additional such space for each additional twenty thousand (20,000) square feet of gross floor area.
- D. For banks, business or professional offices or public administration buildings containing forty thousand (40,000) to one hundred thousand (100,000) square feet of gross floor space, - one off street loading and unloading space plus one additional such space for each additional forty thousand (40,000) square feet of gross floor area.
- E. For buildings containing manufacturing or industrial uses, research and testing laboratories, laundry and dry cleaning establishments, printing, binding, publishing and issuing of newspapers, periodicals, books and other reading matter, warehouse and storage facilities, engraving shops, assembly of materials and products, and other similar uses having more than eight thousand (8,000) square feet of gross floor area exclusive of basement area and less than forty thousand (40,000) square feet of gross floor area, - one off street loading and unloading space, plus one additional such space for each additional forty thousand (40,000) square feet.

It should be noted that the area zoned C-4 Central Business District is exempt from these requirements, however, whenever it is possible to provide a loading or unloading facility off-street, they should do so.

## **Section 790                      Parking Standards**

- A. Parking areas may be required to be arranged so as to prevent through traffic to other parking areas.
- B. Parking areas shall be screened from adjacent non-related structures, roads and traffic arteries with plantings, earth berms, walls or changes in grads, when deemed necessary.
- C. All parking areas shall be marked so as to provide for orderly and safe parking, storage and movement.
- D. When it is in the interest of safety and better vehicle and pedestrian circulation, the use of landscape elements to provide physical separation of use areas may be required.
- E. All parking areas shall be adequately lighted. All such lighting shall be so arranged as to

direct the light away from adjoining residential real estate.

- F. All parking areas and off-street loading areas shall be graded and drained to remove all surface water without erosion and flooding.

Part II  
Article VIII

**PLANNED UNIT DEVELOPMENT DISTRICTS**

**Section 800                      Purpose**

It is the intent of this Planned Unit Development District article to provide land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof, may be developed with a variety of residential types and non-residential uses, which are planned and developed as a unit.

This article specifically encourages innovations so that the growing demands for housing may be met by greater variety of type, design, and siting of dwellings by the conservation and more efficient use of land. This article also encourages the conservation and more efficient use of the land for non-residential development.

This article recognizes that a rigid set of space requirements along with building and use specifications would frustrate the application of this concept. Therefore, where PUD techniques are deemed appropriate, the land may be designated for PUD development as a PUD District. When an area is so designated, the use and dimensional specifications elsewhere in the Zoning Ordinance are replaced by an approval process in which an approved development plan as allowed in IC 36-7-4-1500, becomes the basis for continuing land use control.

**Section 801                      Objectives**

To carry out the intent of this Article, a PUD endeavors to provide:

1. A choice in the types of environment, occupancy tenure, types of housing, types of ownership, and community facilities available to existing and potential residents.
2. Usable open space and recreation areas.
3. Convenience in the location of accessory commercial and service areas.
4. Preservation of natural topographical and geological features with emphasis on:
  - A. prevention of soil erosion,
  - B. conservation of existing surface and subsurface water, and
  - C. preservation of tree cover and other environmentally enhancing features
5. An efficient network of streets and utilities;
6. The development of a pattern in harmony with the objectives of the City's Comprehensive Plan
7. A more efficient utilization of the land than what might be obtained through other development procedures.

**Section 802                      Delegation and Election**

The Common Council, pursuant to IC 36-7-4-1511, hereby delegates to the Plan Commission:

- A. Authority to conduct secondary review of a PUD district ordinance under IC 36-7-4-1509 (c):
- B. Authority to modify permitted uses or development requirement that are specific in a PUD district ordinance.

Except as provided in Section 874 there shall be no appeal to the Common Council from any decision of the plan Commission pursuant to (a) or (b) above. Such decisions of the Plan Commission may be reviewed by certiorari procedure in the same manner as that provided for the appeal of a decision of the Board of Zoning Appeals.

The Common Council pursuant to IC-36-7-4-1509(a1) hereby elects to establish development requirements expressed in general terms.

### **Section 805                      Definitions**

As used in this Ordinance, the following words mean:

1. Concept Plan - a plan for an entire parcel of land, drawn to scale, that generally indicates densities, uses, a calculation of what percentage of the entire parcel is devoted to each different use classification, and infrastructure locations including open space - common and public.
2. Development Plan - as defined in state statutes as a plan that includes "development requirements that are required for the development of a parcel of land according to standards; and requirements that conform to IC 1403. Once approved, the Development Plan shall designate the PUD parcel as a PUD District and the zoning map shall be amended to so indicate.
3. Open Space - any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment. Such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.
4. Planned Unit Development (PUD) - the development of an area of land as a single entity for a number of dwelling units or a number of uses conforming to an approved Development Plan, which may not correspond in lot size, bulk, or type of dwelling, density, lot acreage or require open space to the regulations otherwise require by other Ordinances.
5. Primary Plat approval - the conferral of certain rights pursuant to this act prior to final plat approval after specific elements of the Development Plan have been agreed upon by the Plan Commission and the City Council.
6. Secondary Plat approval - the official action of the Plan Commission taken after all conditions, engineering plans and other requirement have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion or approval conditioned on the posting of such guarantees within 60 days of Secondary Plat approval.
7. Site Plan - a site development plan of the entire PUD which delineates: (1) the existing and proposed topography of the lots, (2) the location of all existing and proposed buildings (other than single family residential), parking spaces, means of ingress and egress, drainage facilities, landscaping, structure and signs, lighting, screening devices, and (3) any other information that maybe reasonably required in order to make an informed determination.

### **Section 810                      General Process for Development of a PUD**

1. Developer files a concept site plan and draft development plan for a PUD with the Planning Office.
2. A Site Review is schedule for the concept and development plans.

3. Both concept and development plans are presented to Plan Commission in a public hearing.
4. Plan Commission recommends to City Council both concept and draft development plan, and that this parcel be rezoned PUD.
5. City Council votes on rezoning to PUD, concept, and draft development plans with any Written Commitments attached.
6. Developer files a primary plat and Final Development Plan with Planning Office. Both are scheduled for public hearing at Plan Commission.
7. Plan Commission holds public hearing on primary plat and final Development Plan.
8. Primary plat and final development plan are approved by Plan Commission.
9. Secondary Plat is filed with Planning Office.
10. Secondary Plat is approved by Plan Commission, and plat and Development Plan are recorded by developer.

If a PUD is halted or abandoned for longer than one year, it is considered abandoned, and the developer must ask the Plan Commission for an extension or reaffirm approved plans, or ask for amendments to approved plans.

#### **Section 815                      Uses**

Same as existing ordinances. All uses shall be specified in the final Development Plan.

#### **Section 820                      General Requirements**

1. No building shall be closer than 25 feet to any lot line dividing land inside the PUD from land zoned or used as residential outside the PUD.
2. Site and structure regulations for PUDs shall adhere to the following regulations:
  - A. Plot and lot sizes, dimensions, and structure heights, and locations may be freely disposed and arranged in conformity to the overall density standards recommended by the Plan Commission or stated in this Article. Minimum lot size and frontage, and maximum lot coverage are not specified but the Plan Commission may be guided by standards set in other Zoning Ordinances and by common good practice.
  - B. A minimum of 30-foot front yard setback shall be provided on any highway or thoroughfare designated as arterial or collector on the Official Thoroughfare Plan.
  - C. Every residential dwelling unit, commercial, or industrial complex or building shall have access to a public street, court, cul-de-sac, walkway, or other area dedicated to public use or subject to an easement for access. The boundaries and extent of the lot or plot upon which any single unit detached or attached dwelling is located shall be clearly defined and monumented.
  - D. Right-of-way and pavement widths for internal ways, streets, and alleys shall be determined from sound planning and engineering standards in conformity with the estimated needs of the full development proposed and the traffic to be generated, and shall be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of fire-fighting equipment and other emergency vehicles.
3. Utilities. A developer of a PUD shall furnish public water and sanitary sewage facilities based on agreement with the appropriate municipal officials. The developer shall provide all necessary storm drainage, highway access, paved service streets, parking facilities, fire hydrants, off-street lighting and other public improvements deemed necessary by the City,

and shall make reasonable provision for service to the connections with adjoining properties in other ownership.

4. If the PUD contains 10-50 residential units, the PUD shall contain a minimum Open Space of .1 acre. If the PUD contains more than 50 residential units, the minimum Open Space is .01 acre per residential unit. The open space may consist of:
  - A. an area owned and maintained by a Property Owner's Association; or
  - B. with the consent of the City Park Department, an area dedicated to the public for park purpose.

If neither A) nor B) are feasible, the PUD district ordinance may, with the agreement of the developer, be made subject to a written commitment that the developer will pay to the city for park purposes an amount equal to the value of such acreage.

### **Section 830                      Residential PUDs**

All PUDs designated by its Development Plan as a residential PUD shall be in compliance if a residential PUD is greater than 25 acres, the site plan may include a parcel of land designated for commercial use that is not more than 10% of the total gross development. The types of commercial uses shall be determined and specified as part of the Development Plan. All change of use after the Development Plan approval shall be reviewed and approved by the Plan Commission.

### **Section 835                      Commercial PUDs**

All Commercial PUDs shall be in compliance with the following regulations:

1. All Commercial PUDs abutting a residential district shall provide a minimum 25-foot planted greenbelt along the entire width of abutment.
2. All Commercial PUDs shall provide a 10-foot planted greenbelt around the perimeter of the entire development excluding streets, sidewalks, and drives. This greenbelt shall NOT be considered part of the required open space.
3. A maximum of 10% of the total Commercial PUD may be used for residential purposes
4. A maximum of 5% of the total Commercial PUD may be used for industrial purposes if they are deemed compatible with the commercial and/or residential uses. Compatibility shall be determined as part of the PUD Development Plan.

### **Section 840                      Industrial PUDs**

All Industrial PUDs shall be in compliance with the following regulations:

1. A minimum of 20-foot planted greenbelt shall be provided around the entire perimeter excluding drives, streets and sidewalks. This greenbelt shall NOT be part of the required open space.
2. A maximum of 30% of the total area can be used for commercial uses.

### **Section 850                      Variances**

All variances to this ordinance shall be part of the approved Development Plan. Variances shall be determined acceptable if the Plan Commission finds:

1. the general requirements of this ordinance would cause unnecessary hardship or practical difficulties because of exceptional and unique topography, access, location, shape, size, drainage or other physical features of the site; or

2. the Plan Commission finds that due to the size, shape location, permitted use, or uniqueness of the development a variance would constitute good planning, and would not adversely affect the public health, safety morals or welfare, or the rights of adjacent property owners. All variances recommended by the Plan Commission based on the above findings, shall be part of the approved Development Plan, and may include conditions imposed by the Plan Commission to substantially secure objectives of this ordinance.

For variances requested after the Secondary Plat and/or Development Plan has been approved see Section 870. All approved variances shall be recorded.

### **Section 855                      Primary Plat Procedures**

All PUD developers shall present a complete concept site plan and draft development plan (see Article 35, Section 3520) to the Site Review Committee at least a month before the public hearing at the Plan Commission. The Site Review Committee shall review both and comments shall be recorded and minutes distributed to participants and Plan Commission members. The Plan Commission shall, if all issues are resolved, make a recommendation on the concept plan and draft development plan to the City Council.

At the next City Council meeting, a vote on the concept plan and draft development plan may be requested. When the concept plan and draft development plan are approved by the City Council, then the primary plat can go to public hearing at the Plan Commission.

A proposed primary plat for a PUD shall be filed with the Planning Office as part of a primary plat petition. The petition shall include a list of all property owners within 300 feet of the PUD, and a legal description of the PUD.

At least a month before the Plan Commission public hearing for the primary plat, the PUD developer shall present to the Site Review Committee a primary plat and final Development Plan. Comments shall be recorded and distributed to participants.

The Planning Office will set a public hearing for the Plan Commission and a Site Review Committee meeting. The Plan Commission shall within 45 days of the public hearing approve or deny the primary plat with Findings of Fact. It is the obligation of the Plan Commission to work with PUD applicants to get the best possible development. If the Plan Commission approves the primary plat, Development Plan, and PUD Findings of Fact, the developer can then present a Secondary Plat. Approval of a primary plat shall not constitute authority to proceed with any construction of any improvements.

If the Plan Commission denies the primary plat or the Development Plan, it must specify reasons in a Finding of Fact statement. The Plan Commission may recommend further study of the site and/or Development Plan and resubmission at a later date. Approval of a primary plat does not obligate the Plan Commission to approve a Secondary Plat.

An approved primary plat is valid for two years. If no Secondary Plat is approved within the two years, the PUD developer must appear before the Plan Commission and request an extension. The Plan Commission may approve or deny the extension.

## **Section 860                      Primary Plat Contents**

All PUD Primary Plats shall contain the following information:

- A. Name and address of applicant, developer and owner
- B. Location of PUD parcel per a scaled location map
- C. Existing topography features of the site
- D. Phasing schedule of development
- E. Location of proposed open spaces
- F. Delineation of all uses and area in acres of each use
- G. Total number of residential units and percent of each type of residential uses
- H. Delineation of each commercial and/or industrial use, and total number of such units and percent allocated to these uses
- I. Density percents of every residential use based on gross acres
- J. Delineation of areas subject to flooding including data on frequency and extent
- K. Delineation of all areas that lie in an aircraft pattern Drainage Plan.
- L. Delineation of all easements, right-of-ways, covenants or any other restrictions imposed upon the land or buildings
- M. Proposed delineation of utilities, pavements, sidewalks, alleys, and parking, including widths
- N. General description of community services available to the development's residents including schools, fire protection, parks and all public/private utilities
- O. General statement on proposed ownership and maintenance of common open space
- P. Proposed construction schedule
- Q. Adjacent land uses, topography, and all existing streets and driveways on the perimeter of the PUD
- R. A final Development Plan with all Written Commitments approved by the City Council

## **Section 865                      Secondary Plat Content and Procedures**

A PUD Secondary Plat of all or part of a PUD primary plat can be filed with the Planning Office any time after the Plan Commission approves a primary plat. The Secondary Plat will be placed on a Plan Commission agenda. It does not require a public hearing. The Plan Commission shall have a maximum of 45 days to approve or deny a secondary plat. Approval of a secondary plat does not authorize construction unless the Board of Public Works and Safety has approved construction plans and any necessary surety. The recording of the approved Secondary Plat shall inform all whom deal with the PUD of the restrictions placed on the land and act as a zoning control device.

- 1. Content of a PUD Secondary Plat
  - A. Final uses delineated and suitable for recording.
  - B. All subdivided lands delineated as required for all subdivisions.
  - C. Legal description of each subdivided lot including all common open space.
  - D. Address for each lot and common open space.
  - E. Street names that have been approved by the postal service and local emergency care providers.
  - F. Location and dimensions of all building lots, permanent common open space, easements and right-of-ways.

- G. Reference to protective covenants, final total of acres, building sites by use, and density of each use.
  - H. Other information as required in the Subdivision Ordinance
2. At the time a Secondary Plat is presented, a PUD developer also shall provide:
- A. Six (6) copies of engineering plans that are drawn to scale and include all easements and buildable plans for all infrastructure prepared, signed and sealed by an Indiana licensed engineer
  - B. An affidavit guaranteeing the completion of all public infrastructure. The guarantee may be in the form of
    - 1.) a developer's bond one and one-half the amount of the estimated cost of all public improvements yet to be completed; or
    - 2.) cash in the amount of one and one-half times the estimated cost of all public improvements yet to be completed; or
    - 3.) a lien to be recorded on all the land proposed to be part of the PUD, with partial releases possible after the loan company and the City agree on the estimated cost of all public improvements yet to be completed and the loan company agrees to hold in escrow one and one-half times the estimated cost; or
    - 4.) a deposit with the City other collateral equivalent to one and one-half times the estimated uncompleted public improvement cost.

The Board of Public Works and Safety must approve the construction plans for any public improvements and any necessary surety prior to recording the secondary plat.

### **Section 870 Findings of Fact Planned Unit Development**

The Plan Commission will use the following findings and form for all PUD primary plat approval or denial.

The City Plan Commission, City of Valparaiso now makes the following findings of fact in support of its approval/denial of the following petition for a Primary Plat of a Planned Unit Development:

Name of petitioner\_\_\_\_\_

Date\_\_\_\_\_

Name of project\_\_\_\_\_

This Primary Plat of a Planned Unit Development:

- \_\_\_\_\_ is consistent with the stated purposes of the PUD regulations
- \_\_\_\_\_ meets the requirements and standards of the PUD regulations
- \_\_\_\_\_ deems the proposed departures from the zoning regulations including but not limited to density, dimensions, area, bulk, and use, to be in the public interest
- \_\_\_\_\_ there are adequate provisions in the physical design for public services, control over vehicle traffic, and protection of designated open spaces that further the amenities of light, air, recreational and visual enjoyment.
- \_\_\_\_\_ includes adequate structures and roadways built in areas susceptible of flooding, ponding or erosion

\_\_\_\_ is compatible and beneficial to the adjacent properties and neighborhood  
\_\_\_\_ adds to the physical development, tax base, and economic well-being of the entire community  
\_\_\_\_ conforms with recommendations of the Comprehensive Plan  
\_\_\_\_ appears to conform with all existing federal, state and local legislation and regulations.

The Plan Commission approved/denied by a vote of \_\_\_\_ to \_\_\_\_

President of the Plan Commission \_\_\_\_\_

### **Section 874. Major Conceptual Changes**

At any time after Common Council approval of a PUD and Development Plan pursuant to Section 810(5), no major conceptual change to the PUD or Plan may be made without the approval of both the Plan Commission and the Common Council. A major conceptual change is defined as any of the following:

- (1) the land area covered by the PUD is changed;
- (2) a use previously not permitted is added;
- (3) 10 % or more of the land area of the PUD is shifted from one zoning classification to another, net of any compensating changes;
- (4) within any residential use classification, the density of the use (as measured by living units) is increased by 10% or more;
- (5) any other specific type of change which the Common Council specifies at the time it approves the PUD and Development Plan; or
- (6) any other change which so modifies the intent or concept of the PUD that the Plan Commission determines requires action by the Common Council.

### **Section 875                      Amending a PUD and/or a Development Plan**

All PUDs shall be constructed and developed as delineated on the approved Secondary Plat and Development Plan as recorded. All recorded documents and amendments shall be binding on applicants, their successors, grantees, and assigns, and shall limit and control the use of the PUD land and location of structures. After all plats and documents have been recorded, any major amendments to the PUD will require a public hearing and approval by the Plan Commission. Any minor amendments will require approval by the Plan Commission. Both major and minor approved amendments shall be recorded with the Porter County Recorder.

1. Major amendment - any change which alters the concept, uses or intent of the PUD including increase in density, increase in height of buildings, reduction of open space, changes in sequence of development, changes in road/street standards, and/or changes in covenants and/or the approved Development Plan.

2. Minor amendment - any change that does not alter the concept or intent of the PUD or the Development Plan and is not defined as a major amendment.

All changes to the Secondary Plat shall be recorded with the County Recorder as amendments to the Secondary Plat or reflected in the recording of a new corrected Secondary Plat.

In addition to any requirement in this section, any change which fits the definition in Section 874 of a “major conceptual change” shall require the approval of the Common Council.

#### **Section 880                      Fees**

Any person, firm, corporation, or agent who shall file a petition for amendment, or application for appeal, variance, special use, planned unit development (PUD) or for other certificate of license required under the terms of this Ordinance, shall be charged a fee in accordance with the City of Valparaiso's established schedule of fees as listed in the City's Municipal Code.

#### **Section 890                      Penalties**

Any person, firm, corporation, or agent or any employee or contractor of same who violates, destroys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this Article shall be subject to fines as provided in Article XII of this Ordinance. As offense is deemed committed each day during, or on, which a violation has occurred.

#### **Section 895                      General Administration**

In administering its responsibilities under this ordinance, the Plan Commission may promulgate any rules, negotiations, or procedures consistent with this Ordinance or state law.

Part II  
Article IX

**SIGN ORDINANCE**

**Section 900 Purpose and Title**

The purposes of this Ordinance are:

- to regulate, classify, restrict, and control the location, size, type and placement of all signs and sign structures;
- to eliminate and prevent excessive and confusing sign displays which do not relate to the premises on which they are located within the city;
- to preserve the natural beauty and environment which is instrumental in attracting those who come to visit, trade, attend school, or set up residence;
- to safeguard, stabilize, and enhance property values;
- to protect public and private investment in buildings and open spaces;
- to insure a consistent and appropriate aesthetic environment; and
- to protect the public health, safety, and general welfare.

This Ordinance shall be known as the City of Valparaiso Sign Ordinance.

**Section 901 Scope of Application**

(A) Hereinafter, all construction, relocation, enlargement, alteration, and modification of signs within the City shall conform to the requirements of this Ordinance, all State and Federal regulations concerning signs and advertising, the Uniform Building Code, and the National Electric Code.

(B) If a permit for a sign has been issued in accordance with law prior to the effective date of this Ordinance and provided that construction is begun within six months of the effective date of this Ordinance and diligently prosecuted to completion, said sign may be completed in accordance with the approved plans on the basis of which the permit has been issued, subject thereafter, if applicable, to the provisions herein for nonconforming signs.

**Section 902 Administration.**

The Building Commissioner shall have the power to administer and enforce the provisions of this Ordinance. He may, in his discretion and with their consent, delegate and assign such administrative, enforcement, and inspection duties hereunder to the City Police Department, the City Fire Department, or other appropriate person or agency.

**Section 903 Severability**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

## **Section 904                      Definitions and Rules of Interpretation**

For the purpose of this Ordinance, certain terms are defined in this Section. Whenever a defined term is used in the Ordinance, the term is printed in bold letters to indicate it is the subject of special definition (except for the words "city," "sign," and "person.") When not inconsistent with context, words used in the present tense include the future and past tenses, words in the singular number include the plural, words in the plural include the singular, and words in the masculine gender include the feminine and neuter.

*Animated Sign.* Any sign that includes action, motion, or color changes on all or any part of the sign facing, requiring electrical energy, or set in motion mechanically or by movement of the atmosphere. This definition includes signs commonly called bi-view, tri-view, or multi-view signs which alternate or otherwise change displays whether through mechanical or electrical means. An animated sign does not include a clock and/or thermometer display.

*Area of Sign.* The area or "surface area" of a sign is defined by the smallest perimeter fully enclosing the total surface devoted to the sign's message, together with any ornamentation, embellishment, and associated background, excluding any necessary supports or uprights on which the message is placed and excluding any architectural ornamentation. As an aid to interpreting this formulation, the following is to be employed:

if the message is on a surface, structure or frame specifically employed for holding signage, the entire surface area within the frame's border is counted;

if the message is on a door, wall, or other structural part of a building, only that portion of the door, wall, or structure actually devoted to the message and associated symbols and background, if any, is counted.

If a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that if two (2) faces are placed back-to-back and are at no point more than three (3) feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or the area of the larger face if the two faces are of unequal area.

*Artisan Sign.* An non-illuminated sign not exceeding 8 square feet in area placed on a site during the period that the work is being engaged in, with the permission of the site's owner, displaying the name of the contractor or artisan improving the site or structure on the site.

*Building Frontage.* The total length in linear feet of a building(s) along that edge most nearly parallel with a street abutting the building's lot regardless of whether such is functionally the front, rear, end, or side of the building.

*Campaign Sign.* Any sign, poster, billboard, or other outdoor advertisement advocating the election or defeat of a particular candidate for public office, or group of candidates, or political party.

*Changeable Copy Sign.* A sign wherein provision is made for letters or characters to be placed in or upon the surface area either manually or electronically to provide a message. Such message

may not be changed more often than daily, except for time and/or temperature displays. A changeable copy sign does not include any sign that meets the definition of a flashing sign.

*Chaser Sign.* A sign that creates a running effect in a bank of lamps or tubes.

*City.* Always refers to the City of Valparaiso, Porter County, Indiana and means the City itself or any subdivision, board, commission, or agency of the City; it does not include the School City or the Valparaiso Community School System.

*Construction Sign.* An non-illuminated sign giving the name or names of principal contractors, architects, and lending institutions responsible for new construction or major renovation on the site where the sign is placed together with other information included thereon authorized by the Building Commissioner in connection with construction operating for a specific project not to exceed thirty-six (36) square feet in area beginning with the commencement of construction and extending to a date fifteen (15) days after the completion of construction operations.

*Financier's Sign.* An non-illuminated sign not exceeding 8 square feet in area placed on a site during the period of construction or renovation and for 7 days after the completion of the project, with the permission of the site's owner, displaying the name of the person, firm, or financial institution providing the financing for the project.

*Flashing Sign.* Any sign which contains a continually intermittent light or sequential flashing light source. This definition specifically includes signs that use intermittent lighting changes for the purpose of changing the graphics or copy within the copy area of a sign more often than daily as in an electronic reader board (as herein defined) or message center (as herein defined), except that such reader boards or message centers may display time and/or temperature readings which change more often than daily.

Message Center. A sign that contains a changing message within the copy area that remains on for a specified minimum period of time and blacks out for a specified minimum period of time between messages. Messages contained on the sign do not travel or appear to travel in any direction.

Electronic Reader Board. A sign which contains a traveling message or a message which appears to be traveling, and usually in a horizontal direction.

*Ground Sign.* Any sign supported by uprights or braces in or upon the ground and not attached to any building.

*Home Occupation Sign.* A sign directing attention to a business or professional activity conducted on the same zoning lot in a residential district, containing only the name and occupation of the resident, not to exceed two (2) square feet in area, and only as approved by the Board of Zoning Appeals.

*Illuminated Sign.* A sign designed to give forth artificial light or reflect it from another source. A sign designed to give forth artificial light is an "internally illuminated sign."

*Inflatable Display.* Any three-dimensional, ambient air-filled object depicting a container, figure, product or product traddress, whether or not such object contains a message.

*Institution Sign.* A sign containing information about an on-site institution, such as churches, schools, hospitals, rest homes, private clubs and similar institutions or organizations.

*Integral Sign.* Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface on the wall of a building, or when constructed of bronze or other incombustible materials mounted on the wall of a building.

*Off-Premise Sign.* A sign attached to a building, the ground, or structure advertising a business, product, service or event conducted, sold, or offered elsewhere than upon the same zoning lot. This definition includes structures commonly called billboards, posterboards, or panels.

*Message.* A sign's message includes its text, drawings, figures, logo, and any associated background.

*Permanent Sign.* Any sign which is not a portable sign.

*Person.* An individual, association, corporation, or other legal entity.

*Portable Signs.* Any sign not permanently affixed to a building, structure, or the ground such as a sign designed to be moved from place to place, or designed to be removed and re-erected from time to time, or attached directly or through a structure to a chassis equipped with wheel and axle or other means of mobility.

*Projecting Sign.* Any sign supported by a building or other structure which projects over any street, sidewalk, alley, public way, or public easement more than twelve (12) inches from the face of the building or structure.

*Real Estate Sign.* A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located or to the sale or lease of one or more structures or a portion thereof located on such lot or tract of land, during the pending of such sale or lease and for seven (7) days after closing.

*Roof Line.* The upper edge of any building wall or parapet, exclusive of any tower, chimney, ventilation equipment or utility equipment.

*Sign.* A name, display, identification, device, notice, figure, painting, drawing, message, placard, poster, word, bulletin board, symbol, letter, numeral, emblem, trademark, flag, or banner, pennant, or other illustration which is affixed to or painted or represented directly or indirectly upon a building, or other outdoor surface, or parcel of land and which directs attention to an object, product, place, activity, person, institution, organization, or business, and is visible from any alley, street, highway, sidewalk, or other public way, whether such is placed out of doors or in windows. The term sign does not include any display of official notices of courts or other

public offices, nor the flag, emblem or insignia of a nation, political unit, school, or religious group. The term "sign" shall not include the merchandise, which is for sale on the premises, the packaging or container for such merchandise, or any writings or other symbols on such merchandise, container, or packaging.

*Snipe Sign.* Any sign (whether attached in any way to a utility pole, tree, traffic control device, or any object, or the ground, or otherwise situated) on (a) public property without the consent of the appropriate public body or (b) private property without the consent of the owner or occupier thereof.

*Wall Sign.* A sign mounted on, attached to, or painted or applied on the exterior wall of a building or structure in a plane parallel to that of the supporting wall or structure, or painted or otherwise applied to an awning or canopy consisting of cloth or fabric material provided such awning or canopy is attached to a wall and not to the ground, extending no more than twelve (12) inches from the surface to which it is attached. Any sign meeting this definition is not a projecting sign.

*Wind Sign.* Any attention-arresting device, with or without message, or a series of devices such as streamers, and/or pennants, with or without message, designed and fastened in such a manner as to move upon being subjected to pressure by the atmosphere; except that such definition shall not include, (a) on each building, up to four banners, flags, or pennants, and (b) on each light standard, one banner, flag, or pennant.

*Window Sign.* A sign installed on the exterior or on or near the interior of a window for the purpose of viewing from outside the premises.

## PRE-EXISTING SIGNS

### **Section 905                      Nonconforming Signs**

(A) Notification of Nonconformity. After the enactment of this Ordinance, the Building Commissioner or his delegate shall, as soon as practicable, survey the city for signs which do not conform to the requirements of this Ordinance. Upon determination that a sign is nonconforming, the Building Commissioner or his delegate shall use reasonable efforts to so notify either personally or in writing the user or owner of the property on which the sign is located of the following:

- (1) the sign's nonconformity; and
- (2) whether the sign is eligible for characterization either as legal nonconforming or unlawful.

If the owner or user of the sign or property on which the sign is located cannot be contacted, the notice may be affixed in a conspicuous place to the sign or to the business premises with which the sign is associated.

(B) Signs eligible for characterization as legal nonconforming. Any sign located within the city limits on the date of adoption of this Ordinance which does not conform to the

provisions of this chapter is eligible for characterization as a "legal nonconforming" sign and is permitted, provided it also meets the following requirements:

- (1) The sign was covered by a sign permit or variance on the date of adoption of this Ordinance if one was required under applicable law, or, if no sign permit was required under applicable law for the sign in question, the sign was in all respects in conformity with the applicable law immediately prior to the adoption of this chapter or had legal nonconforming status at such time; and
- (2) The sign is a permanent sign.

Any nonconforming sign which does not fit the definition of a "legal nonconforming" sign is an unlawful sign. Subject to sub§ (C), a legal nonconforming sign shall retain such status in perpetuity.

If land is annexed to the City of Valparaiso subsequent to the effective date of this Ordinance, any signs that do not conform to this Ordinance at such time shall have legal nonconforming status if:

- (1) Under applicable federal, state, and county regulations, the sign was legal in all respects immediately prior to annexation;
- (2) The sign is a permanent sign; and
- (3) The annexation was not conditioned upon the removal or modification of the sign.

Any sign not meeting such requirements is an unlawful sign.

(C) Loss of legal nonconforming status.

- (1) A legal nonconforming sign shall immediately lose its legal nonconforming status if:
  - (a) The sign or sign structure, because of improper installation or maintenance, constitutes a threat to public health or safety and remains in such condition after a reasonable time is given to remedy the problem;
  - (b) The sign is demolished or damaged to the extent of 50% or more of its value;
  - (c) The permit, variance, or condition under which the sign was allowed expires; or
  - (d) The sign or sign structure is substantially structurally altered so as to prolong its expected life.
- (2) On the happening of any one of the above-listed items, the sign shall be immediately brought into conformance with this Ordinance or shall be removed. The following shall not result in loss of legal nonconforming status:
  - (a) Any changes of color, design, or message on the sign's face; and
  - (b) Any modification to the sign or sign structure which does not constitute a substantial structural modification.

(D) Nothing in this Ordinance shall relieve the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from any provisions regarding safety, maintenance and repair of signs.

## **SIGNS PROHIBITED IN ALL DISTRICTS**

### **Section 906 Prohibited Signs; Special Exemptions with Written Permit**

(A) Signs Prohibited in All Districts. Subject only to the exemptions set forth in sub § (B) of this section, the following signs are hereby expressly prohibited as to erection, construction, creation, maintenance, repair, alteration, location or relocation within the City:

1. Portable Signs, except as otherwise expressly permitted by § 930 of this Ordinance;
2. Animated Signs;
3. Chaser Signs;
4. Flashing Signs;
5. Inflatable Displays;
6. Wind Signs;
7. Any sign on a motor vehicle or on a semi-trailer with or without tractor which can be seen from the street if circumstances, including the absence of vehicular use and/or the fact that the vehicle or semi-trailer carries no current motor vehicle registration or license plate, demonstrate that the primary use for said vehicle or semi-trailer is the advertisement of a business, product, or service of a business located on the premises where such a vehicle is parked. (Trailers used for construction purposes during the course of construction on site are exempt from this section.) Any such sign advertising a business, product, or service not conducted or available on site is an off-premise sign;
8. Off-Premise Signs except as expressly permitted in M-1 and M-2 districts;
9. Any sign attached to or painted or otherwise rendered on a bench or seat which is located outside a building or structure on a public sidewalk or right-of-way. (Such a sign on a bench or seat not on a public sidewalk or right-of-way is not prohibited by this provision but must comply with all other regulations and its surface area shall be included in the total allowable surface area permitted for the building);
10. Signs which advertise a business which has not been conducted within the past 90 days, or a product or service which has not been offered for sale within the past 90 days, on the premise where such sign is located; if otherwise in compliance with this Ordinance, a sign may be located at such location indicating a move of such business to another location for a period of time not exceeding ninety (90) days from the date of discontinuance of the business at the sign's location;
11. Signs which use string lights or any unshielded light within public view if used in connection with commercial premises for commercial purposes except that this shall not include: (a) holiday decorations at holiday time; or (b) non-flashing neon window signs.
12. Any sign or sign structure determined by the Building Commissioner to be:
  - a. structurally unsafe; or
  - b. a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment.

13. Any sign which obstructs the vision of drivers, or unduly distracts the attention of drivers, or obstructs the visibility of any traffic sign or traffic control device by reason of size, location, coloring, or illumination;
14. Any sign which obstructs free ingress and egress from a required door, window, fire escape, or other exitway, and any other sign prohibited by the building code;
15. Signs with a commercial purpose which make use of words such as "Stop," "Look," or "Danger," or other similar words, phrases, symbols, or characters in such a manner as to imply the need of stopping or the existence of danger;
16. Any sign unlawfully installed, erected, or maintained;
17. Any sign or other advertising structure containing any obscene, indecent, or immoral matter;
18. Any sign placed or installed in or on any parkway, alley, public street, easement or right-of-way as established by the official thoroughfare plan except as may be authorized by the Board of Public Works and Safety;
19. Any sign not in compliance with Federal or State law;
20. Any sign which is constructed or installed in such a manner as to overhang a public street, sidewalk, or right-of-way, except as otherwise expressly permitted by this Ordinance;
21. Snipe Signs;
22. Signs which are accessory to an unlawful use.

(B) Exemptions by Special Permit.

- (1) Exemptions for Grand Openings. A business or other venture commencing its activities on a site shall be, for a period of one week prior to such opening and for two weeks after such opening, if such business applies to the Building Commissioner for an exemption and pays a fee as set by the Common Council, granted exemption from the prohibitions in §§ 1-7 in sub§ (A) above. The surface area of these signs shall not be counted toward the maximum sign surface area permitted nor subject to any height regulation.
- (2) Exemptions for Special Promotions. Upon application to the Building Commissioner and payment of a fee as set by the Common Council, a business or other venture engaging in special promotions shall be granted exemption from the prohibitions in §§ 1-7 in sub§ (A) above for a period or periods totaling up to 10 weeks per calendar year. The application shall indicate the exact period or periods of the special promotion(s). The surface area of these signs shall not be counted toward the maximum sign surface area permitted or subject to any height regulation.

## SIGNS EXEMPT FROM A SIGN PERMIT

### **Section 907 Exempt Signs**

The following signs, if they comply with the limitations as stated in this section, and if they are permitted in the pertinent zoning district as set forth in this Ordinance, are exempt from the requirement of a sign permit:

1. Construction signs, provided that the contractor or other person placing such sign has made and maintains the deposit set forth in § 913;
2. Real estate signs, except that if placed by any person or firm in the business of selling or brokering real estate, the exemption shall apply only if such person or firm has made and maintains the deposit set forth in § 913;
3. Specific decorative displays used for holidays, public demonstrations or promotions of civic affairs or charitable activities, except that such may be situated on public property only if authorized by the Valparaiso Board of Public Works and Safety;
4. Signs advertising private garage sales;
5. Posters announcing special programs or events;
6. Campaign signs as permitted in § 912, but not including campaign signs on billboards;
7. Home occupation signs;
8. Window signs;
9. House numbers, name plates for residential housing units identifying the occupancy and address of the premise, not to exceed two (2) square feet;
10. Signs identifying the building name or occupancy and address of the building on fraternity, sorority and professional buildings, not to exceed eight (8) square feet in area;
11. Integral signs;
12. Signs painted on or attached to vehicles bearing current license plates unless such signs are within the definition of § 906(7);
13. Signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that as to each such device the sign area does not exceed six (6) square feet;
14. Signs not exceeding six (6) square feet each which contain only noncommercial messages including designation of restrooms, telephone location, restrictions on smoking, door openings, and private traffic control and parking signs;
15. One sign, not to exceed six (6) square feet in area, per parking lot entrance identifying the business served and providing driving and parking information;
16. Business signs, not to exceed two (2) square feet in area per sign face, containing information on credit cards and business affiliations;
17. Wall signs of no greater than ten (10) square feet and installed no higher than the interior ceiling of the first floor level;
18. Artisan Signs provided that the artisan or other person placing such sign has made and maintains the deposit set forth in § 913.
19. Financier's Signs provided that the financier or other person placing such sign has made and maintains the deposit set forth in § 913.
20. Portable Signs.

## REGULATIONS IN RESIDENTIAL DISTRICTS

### **Section 908                      Signs in Residential Districts**

(A) The following signs are prohibited in zoning districts R-1, R-1A, R-2, R-3, R-4 and OS (Open Space):

1. All signs set forth in § 906;

2. Internally Illuminated Signs;
3. Any sign set back less than 5 feet from any public right-of-way;
4. Any sign if its highest point is,
  - a. for a ground sign, more than 10 feet above ground level
  - b. for a wall sign, higher than the roof line; and
5. Any sign not expressly permitted in sub§§ (B) or (C) hereof.

(B) Subject to § 906, only the following signs are permitted in zoning districts R-1, R-1A, R-2, R-3, R-4 and OS:

1. Construction signs;
2. Real estate signs which do not exceed:
  - (a) as to (i) single-family residences, (ii) duplexes, (iii) individual apartments in multi-family buildings, and (iv) vacant land in R-1, R-1A, and R-2 districts, 8 square feet in area;
  - (b) as to (i) multi-family buildings, (ii) institutions, or (iii) vacant land in R-3, R-4, and OS districts, 32 square feet in area.
3. Signs advertising private garage sales not to exceed six (6) square feet in area;
4. Campaign signs which comply with § 912;
5. Home occupation signs;
6. House numbers, name plates for residential housing units identifying the occupancy and address of the premise, not to exceed two (2) square feet in area;
7. Signs identifying the building name or occupancy and address of the building on fraternity, sorority and professional buildings, not to exceed eight (8) square feet in area;
8. Integral signs;
9. Signs painted on or attached to vehicles bearing current license plates unless such signs are within the definition of § 906(21);
10. Signs not exceeding six (6) square feet in area total per building lot which contain only noncommercial messages;
11. Temporary subdivision signs of not more than thirty-two (32) square feet in area, limited to one per roadway entrance; and
12. Permanent subdivision signs of not more than fifty (50) square feet and not more than 2 in number per subdivision.
13. Artisan Signs.
14. Financier's Signs.
15. Institution signs having a surface area of no more than thirty-six (36) square feet.

(C) The following is also permitted in zoning districts R-3 and R-4: for each building, one wall sign of no greater than ten (10) square feet and installed no higher than the interior ceiling of the first floor level.

(D) Illumination Regulations. If a sign is illuminated by light beamed or reflected upon it, direct rays of light shall not beam upon any part of any other lot nor into a street. A sign in direct line of vision of a traffic signal shall not be red, green, or amber in color. Internally illuminated signs are prohibited. (See the definition of illuminated sign.)

(E) R-14 District for University-Multi-Family. Sign regulation for lots in the R-14 District shall be as follows:

1. For parcels used as single-family or duplex residences, the sign regulations governing R-1 and R-2 Districts;
2. For parcels used as a residence for more than two families (including dormitories and greek-letter organization houses), the sign regulations governing R-3 and R-4 Districts;
3. For parcels owned and operated by a University for University-related purposes other than residences, the sign regulations governing the C-2 District.

## REGULATIONS IN COMMERCIAL DISTRICTS

### **Section 909                      Signs in Commercial Districts**

(A) Prohibited Signs. The following signs are prohibited in zoning districts C-1, C-2, C-2-T, C-3 and C-4:

1. All signs set forth in § 906;
2. Any sign not expressly permitted by this section.

(B) Ground Signs Prohibited in C-4 District. Ground signs are prohibited in the C-4 (Central Business) District.

(C) Permitted Signs. Subject to § 906 and to the regulations set forth in this section, the following signs are permitted in zoning districts C-1, C-2, C-2-T, C-3, and C-4:

1. All signs set forth in § 907;
2. Campaign signs which comply with § 912; and
3. Real estate signs which do not exceed 32 square feet in area.
4. Signs, whether ground signs, projecting signs, or wall signs, identifying, advertising, calling attention to, or containing information about the business or activity conducted on the premises (except that automobile service stations shall comply with the provisions of § 912.)

(D) Setback Requirement. No part of a ground sign or ground sign structure shall be closer than five (5) feet to a paved street, a driveway, a sidewalk, the nearest easement line, the nearest property line, or the nearest right-of-way line as established by the Official Thoroughfare Plan.

(E) Height Regulations.

1. Ground Signs. The maximum height of any portion of a permitted ground sign or ground sign structure shall be determined as follows:
  - for lots with street frontage of 150 feet or less--15 feet;
  - for lots with street frontage of more than 150 feet and less than 300 feet--1 foot of height for each 10 feet of street frontage;
  - for lots with 300 feet or more of street frontage--30 feet.

If a lot has frontage on more than one street, the calculation shall be based on the largest frontage.

2. Wall Signs. No maximum height applies to wall signs which do not project in any part above the roof line. Any sign so projecting shall be subject to the height regulations for ground signs, and such shall be measured from the uppermost portion of the sign to ground level.

(F) Surface Area Regulations. The gross surface area (see definition of "area of sign") of all signs (whether ground signs, wall signs, or projecting signs, except that in the C-4 District, projecting signs shall not be included) excluding exempt signs as set forth in § 907, signs permitted pursuant to §906(B), real estate signs, and signs permitted by sub§§ I and J of this section on a lot or building shall not exceed:

1. In C-1 District, 1 square foot of sign area for each 1 linear foot of building frontage;
2. In C-2 and C-2-T Districts, 2 square feet of sign area for each 1 linear foot of building frontage;
3. In C-3 District, 3 square feet of sign area for each 1 linear foot of building frontage;
4. In C-4 District
  - a. subject to the further limitation in (b) below, 3 square feet of sign area for each 1 linear foot of building frontage. For purposes of calculation, each side of a building which abuts upon a public way shall be considered separate building frontage; however, the surface area of signage attributable to each frontage must face such frontage.
  - b. for any one business or venture, 3 square feet of sign area for each 1 linear foot of building frontage or 132 square feet, whichever is less. For purposes of the 132 square feet limitation for one business or venture, if such business has frontage on more than one public way, it shall have up to 132 square feet for each public way provided that the signage attributable to each frontage must face such frontage.

A business or activity with no ground floor frontage is not prohibited from displaying signage; however, the total area of all signs on the building shall not exceed that calculated on the basis of the businesses or activities located on the ground floor.

(G) Projection Regulations.

1. C-4 District. In the C-4 Central Business District, no sign shall project more than forty-five (45) inches into the public way, sidewalk, or dedicated public easement all as determined, in case of dispute, by the City Engineer. Any such projecting sign shall be oriented so that the face surfaces of the sign are perpendicular to the face of the wall from which they project; provided, however, that a sign projecting from a point at which two walls meet to form a corner may be oriented in any direction. Such projecting signs shall not exceed one and one-half inches in thickness.
2. Other Commercial Districts. Subject to the limitations set forth herein, projecting signs are permitted in
  - a. C-1 District provided that the building is set back a minimum of 20 feet from the public right-of-way;
  - b. C-2 and C-2-T Districts provided that the building is set back a minimum of 15 feet from the public right-of-way;
  - c. C-3 District.
3. Regulations. If permitted, projecting signs shall meet the following requirements:
  - a. a maximum of one projecting sign per building or building lot (except that for buildings or building lots with more than one business or professional user, each user may have one such projecting sign);
  - b. the lowest part of such sign or structure encasing such sign is a minimum of 8 feet above ground level;
  - c. the projection from the building shall not be more than six feet (or, in the C-4 district, 45 inches pursuant to § 1 above) if the sign projects over a public right-of-way or sidewalk;
  - d. no part of the sign shall be closer than 12 inches from a line extended vertically from the curb of a public street or alley; and
  - e. the surface area of any sign shall not exceed
    - i. in C-1 District, 12 square feet,
    - ii. in C-2 and C-2-T Districts, 16 square feet,
    - iii. in C-3 District, 20 square feet.
    - iv. in C-4 District, 8 square feet.

(H) Illumination Regulations. If a sign is illuminated by light beamed or reflected upon it, direct rays of light shall not beam upon any part of any existing residential area nor into a residential district, nor into a street. A sign in direct line of vision of a traffic signal shall not be red, green, or amber in color. Illuminated signs are permitted in all commercial districts; however, in the C-4 district, internally illuminated signs are prohibited. (See the definition of illuminated sign.)

(I) Unified Shopping Centers. If, in a C-2 or C-3 district, the premises have 3 or more occupants each with a distinct business name, as in a unified shopping center under single ownership or control, one additional ground sign is permitted containing the name of the premises, the occupants thereof, and, if desired, a changeable copy sign. Such ground sign shall not exceed one (1) square foot of sign area for each one (1) linear foot of building frontage, but in no event shall the total surface area of such ground sign exceed 100 square feet. Such sign shall be in addition to the maximum surface area for such premises as set forth in sub§ E above.

(J) Large Commercial Buildings. For individual buildings (i.e. not in a Unified Shopping Center) in a C-2 or C-3 District, one additional ground sign is permitted if the following conditions are met:

1. the premises have a minimum of 1,500 square feet of usable floor space;
2. the building is set back from any street a minimum of 30 feet; and
3. the sign does not exceed 40 feet in surface area.

Such sign shall be in addition to the maximum surface area for such premises as set forth in sub§ F above.

(K) Moveable Signage Boards. Placement of moveable signage boards to display daily specials (such as sandwich boards) shall be permitted according to the following:

1. Limited to one sign board per tenant/business with the total area of the sign not exceeding seven (7) square feet per business.
2. All signage boards shall be professionally designed, printed and mounted on durable signage board.
3. Signage shall be limited to the advertisement and sales of merchandise or services directly associated with the business type.
4. Such signage shall be permitted to be displayed on pedestrian walkways located adjacent or nearly adjacent to the entrance of an establishment. Such signage shall not be placed in any drive or access area, nor placed within any landscape area. Such signage shall not be used as a replacement for directional signage.
5. Such signage shall be located a maximum of ten (10) feet from an public entrance to an establishment.
6. Such signage shall be brought inside at dusk or close of business day each day
7. Such signage shall not block or impede pedestrian rights of way or walkways
8. Such signage shall not be internally or externally directly illuminated.

## REGULATIONS IN INDUSTRIAL DISTRICTS

### **Section 910                      Signs in Industrial Districts**

(A) Prohibited Signs. The following signs are prohibited in zoning districts M-1 & M-2:

1. All signs set forth in § 906;
2. Any sign not expressly permitted by this section.

(B) Permitted Signs. Subject to § 906 and to the regulations set forth in this section, the following signs are permitted in zoning districts M-1 and M-2:

1. All signs set forth in § 907;
2. Campaign signs that comply with § 912;
3. Real estate signs which do not exceed 32 square feet in area;
4. Signs, whether ground signs, projecting signs, or wall signs, identifying, advertising, calling attention to, or containing information about the business or activity conducted on the premises (except that automobile service stations shall comply with the provisions of § 912); and
5. Off-premise signs subject to the limitations set forth herein.

(C) Setback Requirement. No part of a ground sign or ground sign structure shall be closer than five (5) feet to a paved street, a driveway, a sidewalk, the nearest easement line, the nearest property line, or the nearest right-of-way line as established by the Official Thoroughfare Plan.

(D) Height Regulations.

1. Ground Signs. The maximum height of any portion of a permitted ground sign or ground sign structure shall be determined as follows:
  - for lots with street frontage of 150 feet or less--15 feet;
  - for lots with street frontage of more than 150 feet and less than 300 feet--1 foot of height for each 10 feet of street frontage;
  - for lots with 300 feet or more of street frontage--30 feet.

If a lot has frontage on more than one street, the calculation shall be based on the largest frontage.

2. Wall Signs. No maximum height applies to wall signs that do not project in any part above the roofline. Any sign so projecting shall be subject to the height regulations for ground signs, and such shall be measured from the uppermost portion of the sign to ground level.

(E) Surface Area Regulations. The gross surface area of all signs (excluding exempt signs as set forth in § 907, real estate signs, and signs permitted by sub§ G of this section) on a lot or building shall not exceed 3 square feet of sign area for each 1 linear foot of building frontage. For purposes of calculation, each side of a building which abuts upon a public way shall be considered building frontage; however, the surface area of signage attributable to each frontage must face such frontage. A business or activity with no ground floor frontage is not prohibited from displaying signage; however, the total area of all signs on the building shall not exceed that permitted for the businesses or activities located on the ground floor.

(F) Illumination Regulations. If a sign is illuminated by light beamed or reflected upon it, direct rays of light shall not beam upon any part of any existing residential area nor into a

residential district, or into a street. A sign in direct line of vision of a traffic signal shall not be red, green, or amber in color.

(G) Large Industrial Parcels. In an M-1 or M-2 district, if a parcel is 3 acres in area or more, one additional ground sign is permitted. Such ground sign shall not exceed 200 square feet. Such sign shall be in addition to the maximum surface area for such premises as set forth in sub§ E above.

(H) Off-Premise Signs. Subject to §906 and other prohibitions set forth in this ordinance, off-premise billboards, posterboards, or panels are permitted in M-1 and M-2 Districts provided that:

1. no such sign shall exceed 100 square feet in surface area;
2. no part of such sign shall be closer than 300 feet from any part of any other sign, whether such other sign is an off-premise or on-premise sign.

## **AUTOMOBILE SERVICE STATIONS**

### **Section 911                      Automobile Service Station Signs**

Any business which dispenses gasoline products at the pump to the public for motor vehicles may display, in addition to all other signs permitted in its zoning district, not more than two (2) additional signs, each of which shall not exceed eight (8) square feet in surface area, for the purpose of indicating the pump price of fuel sold or the announcement of special offers. Said sign or signs may be attached to an existing ground sign, lighting standard, the pump, or the wall of a building. The area of such signs shall not be counted against the total sign area limit of the zoning district in which such business is located. Such signs shall not require a permit and need not be erected by a person with a Sign License.

## **CAMPAIGN SIGNS**

### **Section 912                      Campaign Signs**

(A) Time. No campaign sign is permitted except within thirty (30) days prior to the primary and/or general election to which it pertains. All campaign signs must be removed no later than ten (10) days after the election to which they pertain.

(B) Place and Manner. Campaign signs shall meet the following requirements:

1. Except for campaign signs on lawful billboards in M-1 or M-2 districts or on legal nonconforming billboards, a campaign sign shall not exceed 8 square feet in surface area;
2. If two or more signs are joined together by any means, their combined display area per face shall not exceed 8 square feet;
3. There is a maximum of 2 campaign signs per zoning lot;
4. In residential districts, campaign signs may not be internally illuminated;
5. In nonresidential districts, the illumination of campaign signs shall comply with the illumination regulations for such district;
6. All campaign signs must be set back a minimum of 5 feet from the public right-of-way;

7. No campaign sign shall be placed on public property, or in or on any roadway, parkway, alley, easement, or public right-of-way, or attached to any public utility pole, tree, or other appurtenance on public property;
8. No campaign sign shall be placed on private property without the express consent of the owner or occupier of the property;
9. No campaign sign shall be constructed, installed, placed, or maintained in such a way as to constitute a public nuisance or hazard; and
10. All campaign signs located on, attached to, within, or painted upon any motorized vehicle, including cars, trucks, pickups, campers, or vans shall not exceed 8 square feet and shall not be placed so as to restrict the driver's vision of the road or rearview or sideview mirrors.

(C) Required Bond.

1. City and County Elections. All city and county candidates who intend to display campaign signs shall post a \$100.00 bond before any campaign sign shall be permitted, such bond to be filed with the City Clerk-Treasurer. The bond shall be returned to the candidate if all such candidate's campaign signs are removed within the prescribed time. If the candidate does not remove or cause the removal of all such campaign signs within the prescribed time, the bond shall be forfeited to the City and shall be used for the removal of such campaign signs.
2. State and National Elections. For any political party that intends to display campaign signs for its candidate(s) in a state or national election, whether primary or general, the chair of each recognized party shall submit one bond in the amount of \$100.00 to cover all campaign signs for all state and national candidates running for public office under the auspices of that party, such bond to be filed with the City Clerk-Treasurer. The bond shall be returned to the chair if all such campaign signs are removed within the prescribed time. If the chair does not remove or cause the removal of all such campaign signs within the prescribed time, the bond shall be forfeited to the City and shall be used for the removal of such campaign signs.

(D) Enforcement. Whenever any campaign sign is found to be in violation of this Ordinance, the candidate or party chair of the party to which the candidate belongs shall be notified in writing of the violation. The candidate or chair shall correct the violation immediately or within a reasonable time as determined by the Building Commissioner. If any violation is not corrected within the prescribed time, the City shall remove or cause to be removed any such campaign sign and any expense incurred by the City shall be deducted from the bond of the candidate or party as the case may be. This remedy is in addition to all other remedies provided in the Municipal Code.

(E) Exemptions. This Section does not apply to campaign signs that are bumper stickers or to campaign signs in a parade for which a permit has been issued by the City of Valparaiso.

## ENFORCEMENT PROVISIONS

**Section 913                      Exemption Deposit**

The exemption from the requirement of a written sign permit for construction signs, artisan signs, financier's signs, or real estate signs placed by any person or firm in the business of selling or brokering real estate applies only if the person or firm placing any such sign files a bond in the amount of \$100 with the City Clerk-Treasurer. Such bond shall be available to the Building Commissioner to cover any fines or costs associated with a violation of this ordinance by the filer. In such event, such person shall replenish the amount so taken in order to maintain the exemption. If any such person or firm is found to have violated the ordinance three or more times in one calendar year or fails to maintain the bond at \$100, the Building Commissioner shall revoke the exemption as to such person or firm for up to one year thereby requiring such person to obtain a permit for any sign placed thereafter. (See § 929 on cash deposits in lieu of bond)

**Section 914                      Sign Permit Required**

No person shall (through his own action or those of persons he hires or directs) commence to erect, alter, construct, or relocate any permanent sign or structure subject to this Ordinance, except for signs expressly exempted from the permitting process in § 907, without first obtaining a written Sign Permit from the Building Commissioner. No person shall engage in any work requiring a permit without having the written permit in his possession at the job site.

**Section 915                      License Required**

No person shall engage in the work of erecting, altering, constructing, or relocating any permanent sign which requires a sign permit unless such person holds a valid and current Sign License issued by the Building Commissioner and has such Sign License in his possession at the job site.

**Section 916                      Permit Application Procedure**

Application for a Sign Permit may be made by the owner or agent of the sign or by a Sign Licensee acting on such person's behalf. Applications shall be accompanied by the required fee and shall be made on a form provided by the Building Commissioner and shall contain or have attached thereto the following information:

1. Name, address, and telephone number of the applicant;
2. Name, address, and telephone number of the Sign Licensee who will erect, alter, construct, or relocate the sign (if not the applicant);
3. Name, address, and telephone number of the person or firm for whom the sign is being made or installed (if not the applicant);
4. The position of the sign or advertising structure in relation to nearby building(s) or structure(s), easements, rights-of-way, or applicable set-back lines;
5. Two (2) blue prints or ink drawings to scale of the plans and specifications and method of construction, attachment to the building or other structure or placement in the ground;
6. If required by the Building Commissioner, a copy of the stress sheets and calculations showing the structure's deadload and wind pressure capacities;
7. If the sign includes electrical service, a description of the service to be installed;
8. Written consent or other proof of authorization of the owner of the building, structure, or land to which or on which the sign is to be erected;

9. Such other information as the Building Commissioner may require demonstrating full compliance with this Ordinance, other City Ordinance, or any applicable requirement of state or federal law.

#### **Section 917                      Issuance of Sign Permit**

The Building Commissioner shall, within 30 days of the filing of the completed application, grant such permit if, and only if:

1. The application contains all necessary information;
2. The appropriate Sign Permit fee has been paid;
3. The person erecting, altering, constructing, or relocating the sign holds a valid and current Sign License;
4. If the sign requires electrical service, proof that the electrical work will be done by a qualified electrician;
5. The sign complies with this Ordinance, all other City Ordinances, and all applicable state and federal law.

The Building Commissioner may grant a permit on the condition that the work be stopped at specified time(s) to permit inspection(s). If the Building Commissioner denies such permit, he shall state the reason(s) therefor to the applicant. If the Building Commissioner fails to take any action within 30 days, the application is deemed denied. All denials are appealable pursuant to § 928.

#### **Section 918                      Application for Sign License**

Any person or firm desiring a Sign License shall apply on a form provided by the Building Commissioner and tender the required fee and proof of the filing of the required bond. The application shall include the applicant's name (whether an individual or firm), address, and telephone number. Such license shall, unless revoked, be valid for the balance of the calendar year in which it is issued. Licenses may be renewed annually.

#### **Section 919                      Permit and License Fees**

The Building Commissioner shall maintain a schedule of fees for sign permits and sign licenses. The amounts for such permits and licenses and renewals thereof shall be set from time to time by the Common Council.

#### **Section 920                      Bond**

Every person or firm erecting, altering or removing any non-exempt sign within the city shall file annually with the City Clerk-Treasurer, a bond in the penal sum of \$5,000, conditioned that the person, firm or corporation shall comply with the provisions of this code with respect to alterations, locations, permit and construction requirements, and conditioned further to indemnify the city and its officials from any claims or damages sustained, brought, or obtained against the city or its officials because of the alteration, construction, removal or any accident caused by or resulting therefrom.

#### **Section 921                      Stop Orders**

The Building Commissioner or his delegate may issue a Stop Order commanding that work on a sign cease if (a) the sign requires a permit and none has been issued, (b) the person or firm erecting, altering, removing, or constructing the sign does not have a valid Sign License, (c) the sign violates any provision of this Ordinance, or (d) the continuation of the work otherwise threatens public safety.

#### **Section 922                      Forfeiture of License**

The Building Commissioner may revoke the Sign License of any person or firm if such person or firm (a) has been found to have committed three violations of this ordinance, (b) has ignored a Stop Order issued by the Building Commissioner, (c) has commenced erection or construction of a non-exempt sign without obtaining a permit therefor, or (d) has engaged in actions resulting in a forfeiture of the bond. Such person or firm may apply for a new Sign License no sooner than six months after the date of revocation.

#### **Section 923                      Inspections**

All signs for which a permit is required shall be subject to inspection by the Building Commissioner or his delegate. Footing inspections may be required by the Building Commissioner for all signs having footings. All signs containing electrical wiring shall be subject to the provisions of the National Electric Code.

#### **Section 924                      Notice of Violation**

When written notice of violation of any of the provisions of this chapter has been served on the property owner, agent, occupant, contractor, builder, or Sign Licensee, such violation shall be discontinued. Unless the Building Commissioner specifies a particular time by which the violation must be removed, it shall be assumed that each day the violation continues constitutes a separate violation.

#### **Section 925                      Right of Injunction**

The Building Commissioner or his designated representative may institute a suit for injunction in an appropriate court to restrain an individual from violating the provisions of this Ordinance and may also institute a suit for a mandatory injunction directing the removal of any structure or improvement. Such remedy shall be in addition to other remedies, fines, and enforcements set forth in this or any other Ordinance.

#### **Section 926                      Right of Entry**

In order to determine if any sign or sign structure is unlawfully erected, altered, or maintained, the Building Commissioner or any officer of the City may enter onto that property to investigate the matter and may take appropriate action to bring such sign or structure into compliance. However, before action to bring into compliance may be taken, all persons holding a substantial interest in the sign or structure (including the Sign Licensee, if applicable) must be notified and given a reasonable opportunity to bring the sign or structure into compliance, except that the City may, without such notice, take any steps necessary to alleviate immediate public danger. The City's cost for any work done on the site may be recouped from any person chargeable with the violation.

#### **Section 927                      Presumption of Violator's Identity**

Unless circumstances clearly show otherwise, there exist the following presumptions in connection with any existing sign (including snipe signs) which violates any provision of this Ordinance: (1) the sign was erected at its location by, or with the consent of, the owner and occupier of the site; (2) the sign was erected by, or with the consent of, the company or business advertised thereon; and (3) the sign was erected by, or with the consent of, the promoter of the item or event advertised thereon (including, in the case of the advertisement of available residential housing, the realtor or other promoter thereof). Any person cited for a violation may rebut any such presumption by introducing evidence of the non-existence of the presumed fact sufficient to prove by a preponderance of the evidence that the presumed fact is not true.

#### **Section 928                      Appeals**

Any person aggrieved by a decision of the Building Commissioner shall have a right to appeal such decision within 30 days to the Board of Zoning Appeals.

#### **Section 929                      Deposit in lieu of Bond**

Whenever this Ordinance requires the posting of a bond, the same may be satisfied by a cash deposit with the City Clerk-Treasurer in an amount equal to the face amount of the bond. Such deposit shall be subject to the same charges as the bond and the City has no obligation to pay any interest on such deposit.

#### **Section 930                      Temporary Signs**

Temporary signs, such as construction signs, or signs in connection with a business or venture being carried on in a temporary location, shall be authorized by the Building Commissioner for not more than two (2) months at a time by written permit which shall show the size, shape, content, height, type of construction and locations of such sign(s) and the period of authorization upon a finding by the Building Commissioner, on the basis of written information furnished by the applicant, that the proposed sign or signs are necessary for the direction of the public and not contrary to the spirit and purpose of this Ordinance.

#### **Section 931                      Fines for Violation**

In addition to any and all other remedies set forth in this Ordinance for a violation thereof, the Building Commissioner may, for any violation of this Ordinance, levy a fine against the violator of up to the maximum allowed by the provisions of the Ordinance Violations Bureau, Chapter 37 of the Municipal Code. The Building Commissioner shall notify the violator(s) in writing of such fine. The Building Commissioner may, in the event that the violator maintains a bond or deposit with the City for such violations, charge the fine against such bond or deposit and notify the violator of such action. If no bond or deposit is on file, the violator shall pay the levied fine through the Local Ordinance Violations Bureau. The Building Commissioner may levy a fine for each day the violation is continued. As to any person who violates § 915 by erecting a sign requiring a permit without a valid sign license or any person who, with knowledge of such violation, aids and abets such violation as by hiring such person to erect a sign without a license, the Building Commissioner may elect, in lieu of the fine set forth above but in addition to all other remedies set forth in this Ordinance, to seek a fine for such violation in a court of competent jurisdiction in an amount up to the maximum permitted by IC 36-1-3-8.

#### **Section 932                      Confiscation of Snipe Sign**

In addition to any and all other remedies set forth in this Ordinance for a violation thereof, the Building Commissioner or his designee may remove any snipe sign and confiscate it.

#### OVERLAY ZONES

##### **Section 933                      Effect in Overlay Zones**

Nothing in this Ordinance shall be understood as repealing or otherwise modifying the sign regulations and requirements in the Ordinances creating and regulating overlay zones such as the overlay zones for the Route 49 Bypass or for Route 30.

Part II  
Article X

**INTERMODAL TRANSPORTATION PLAN**

**Section 1000: Purpose and Objectives**

The City of Valparaiso has adopted an Official Intermodal Transportation Plan (OITP) to develop the safest walking, biking, rail, air, and vehicle traffic flow and access points possible, now and for future growth of the City. The OITP's object is to guide the future growth and development of the City along with the Comprehensive Plan and other Articles in the Zoning Ordinance.

The OITP also guides development that provides the most beneficial relationship between uses of land and buildings, and circulation of all intermodal traffic, particularly congestion in the streets, and appropriate pedestrian traffic. Circulation of intermodal traffic is achieved by creating options for travel throughout the City, and by establishing safe traffic patterns that allow cross-city traffic on arterials and collectors, and allow safe cross-neighborhood traffic on Local-Collectors and Local streets. Plans for undeveloped land should also consider the safe circulation of intermodal traffic. The OITP should be used as a guide to provide for the public health, safety and welfare of the City.

**Section 1010: Definitions**

*Arterial* - a street designated to carry large volumes of traffic. Certain arterial streets may be designated as Limited Access Highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

*Bike Lane* – a designated portion of a roadway, a minimum of four (4) feet wide (excluding curbs and gutters), that is signed, striped and marked for bicycle use. A bike lane is a one-way facility that carries bike traffic in the same direction as motor vehicle traffic.

*Bike Path* – designated area, minimum of eight feet wide, that is not part of the roadway, but in the right-of-way area, for the use of pedestrians and non-motorized vehicles such as bikes, skates, scooters, etc.

*Bike Route* – an area for bicycling, either paved or unpaved, that includes bicycle signage.

*Collector* - a street planned to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways for traffic to reach arterial streets.

*Frontage Road* – a designated area parallel to a street right-of-way that connects to a public street at major access points, but is designed to allow destination traffic to separate from through traffic and access parcels or buildings. The Board of Works and Safety can determine when a frontage road is not needed.

*Intermodal* – all forms of transportation from walking to flying.

*Local Street* - a street designated primarily to provide access to abutting properties.

*Local Collector Street* - a local street lying within a subdivision which, although not shown as a collector on the OTP, is built to collector specifications and standards at the request of the Commission.

*Park N' Ride lot* – a designated area for commuter parking.

*Right-of-Way* – a designated area for a form or forms of intermodal transportation that are dedicated to the public.

*Sidewalk* - a designated area in a right-of-way, parallel to a street that is a minimum of four feet wide and designed for pedestrians and non-motorized vehicles.

*Street* - a thoroughfare which affords traffic circulation and a principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare, except an alley. Improved public streets are those constructed according to standards existing at the time of new construction.

*Thoroughfare* – any area designated to move people and/or vehicles.

*Trail* – an area designated for pedestrians that is dedicated to the public or part of a private property owners' system.

## **Section 1020: Official Intermodal Transportation Plan and Scope of Regulations**

The Streets and Thoroughfares Article of the Zoning Ordinance of Valparaiso consists of Article X and a map entitled "[OFFICIAL INTERMODAL TRANSPORTATION PLAN PLAT](#)"; said map as periodically revised by the Commission and Common Council. This map shows the location of existing and proposed thoroughfares and intermodal facilities both within and without the jurisdiction of the Commission is hereby made a part of this Article. Notations, references, indications, and other details shown therein are as much a part of this Article as if they were fully described in the text of this Article. That part of the map which shows existing and proposed thoroughfares and intermodal facilities in areas outside the jurisdiction of the Commission is intended as advisory only until such time as any part of this area comes within the jurisdiction of the Commission, at which time all paths, trail, routes, sidewalks, intermodal facilities, street locations, notations, and references applying to said area shall become a part of this Article.

## **Section 1030: General Requirements**

### **A. Designation of Thoroughfares**

The major streets and highways included in Article X are hereby classified on the basis of proposed width and type and in accordance with their proposed function as Arterial,

Collector, or Local as described in the current Ordinance Providing Standards for Acceptance of Municipal Improvements.

B. Opening or Widening of Streets

Whenever a street classified in this Article is to be platted as a part of a subdivision or the required right-of-way is to be widened or extended, width for such street shall be as specified in this Article, provided that where a street borders a tract of land to be subdivided, the owner of such land shall be required to plat only one-half of the right-of-way designated for such street measured at ninety (90) degrees to the center line thereof.

C. Board of Works and Common Council

The Board of Public Works and Safety and Common Council shall be guided by, and give consideration to, the general policy and pattern of intermodal development set out in this Article for the authorization, construction, and widening, alteration, relocation, or abandonment of public streets, highways, and related structures.

D. Vacation of a Public Way

No public way shall be vacated until the Commission shall have first given notice and held a public hearing regarding said proposed vacation. After proper consideration of the matter the Commission shall then forward its recommendation to the Board of Public Works and Safety for comment and to the Common Council for final action.

E. Variances from Plan

Variances from the Official Intermodal Transportation Plan may be granted by the Board of Public Works and Safety if said variance does not significantly affect or impact the intent of the Plan. A request for such a variance shall be considered by the Commission and a recommendation regarding it forwarded to the Board of Public Works and Safety for final action.

F. Bike Lane

A bike lane is a minimum of four feet wide (excluding curbs and gutters) designated in the paved area of roadway with 14-foot minimum lanes. It is a one-way facility that carries bike traffic in the same direction as motor vehicle traffic. Where street parking is allowed, bike lanes should be a minimum of five feet in width, and placed between the moving traffic and the parked vehicles.

Any additional right-of-way needed for such bike route shall be dedicated. The transfer of development rights in exchange for the additional right-of-way can be considered by the Plan Commission for all subdivisions and PUDs. The transfer of development rights in exchange for the additional right-of-way can be considered by the Site Review Committee for all other projects. All other development standards have to be met or variances sought. All routes shall be signed and stripped according to current safety standards. Those standards include at-grade manhole covers, and smooth pavement. This standards exclude parallel drainage grates.

- G. **Bike path**  
All bike paths as designated on the Official Intermodal Thoroughfare Plan maps are to be a minimum of eight feet wide, and signed and marked for use. A bike path should be sited on streets with heavy traffic counts. Where a bike path crosses an intersection, the bike path should be marked as a bike crossing. Where ever possible, right turns at intersections should be on the shoulder of the roadway, if the bike path or bike lane does not continue. The Plan Commission requires all bike path right-of-way to be delineated and finalized at the time of Site Review, and added to all primary plats. The developer is required to dedicate the right-of-way for the bike path. If the developer builds the bike path, a development right in exchange for the right-of-way shall be granted by the Plan Commission if requested by the developer of a subdivision or PUD. If the developer of any other project builds the bike path, a development right in exchange for the right-of-way shall be granted by the Site Review Committee, if requested by the developer. All other development standards have to be met, or variances sought. All paths shall be signed according to current safety standards.
- H. **Bike route**  
All bike routes as designated on the Official intermodal Transportation Plan maps shall be designated on all site plans and primary plats.
- I. **Trail**  
All trails, private or public, should be marked as such, and maintenance responsibilities should be determined at the time of a primary plat.
- J. **Frontage Road**  
Frontage road right-of-way shall be 40 feet, with size of paved area to be determined by the City Engineering Office. Location, ownership, and maintenance of frontage roads shall be determined at the time of primary plat or site review processes.
- K. **Sidewalks**  
Sidewalks are required as part of any and all developments in the City unless the Site Review Committee recommends a waiver. If a waiver is executed, the Site Review Committee can call in the waiver whenever they deem it necessary for the health, welfare, and safety of citizens.
- L. **Park N’Ride lot**  
Park N’Ride lots shall be designated at the time of planning for intermodal facilities. The size of the lot shall be determined by joint planning between the City and the intermodal provider. All lots shall follow the Tree and Landscape Ordinance, Article XXXI.
- M. **Where applicable, as defined in the Manual of Uniform Traffic Control Devices, intersections shall be stripped and signed as crosswalks according to this manual.**

#### **Section 1040: Location of Streets**

Whenever location of a street is indicated on the "OFFICIAL INTERMODAL TRANSPORTATION PLAN PLAT" as following an existing road or street, or a section or half-section or other established property line, the location of the street shall conform to such location; however, a street wholly within a subdivision and not designated as following an existing road or established property line may be varied in its alignment when such variance promotes the plan of a neighborhood development unit in accordance with good site planning principles and if such alignment provides for the continuity of traffic movement.

#### **Section 1045: Location of other transportation facilities**

Whenever location of any intermodal route or facility is indicated on the "OFFICIAL INTERMODAL TRANSPORTATION PLAN PLAT" the route or facility shall conform to such location as designated on the Official Intermodal Transportation Plan Map and/or required as part of the Signature Street Overlay Ordinance. This includes bike paths, bike routes, sidewalks, trails, commuter rail and bus stations, and frontage roads.

#### **Section 1050: Permits**

Any permits authorized under this ordinance, including but not limited to SITE PERMITS or BUILDING PERMITS, permitting the erection, alteration or relocation of structures and/or other improvements falling under the jurisdiction of this ordinance, shall be issued only, if, in addition to satisfying the requirements of this and other ordinances, the land which lies between the existing right-of-way and the proposed right-of-way, as provided in section 1070 herein, is dedicated to the City of Valparaiso in care of the Board of Public Works and Safety.

Any permits authorized under this ordinance, including but not limited to SITE PERMITS or BUILDING PERMITS, permitting the erection, alteration or relocation of structures and/or other improvements falling under the jurisdiction of this ordinance, shall be issued only, if, in addition to satisfying the requirements of this and other ordinances, all improvements required to cause the road/street and right-of-way to meet the City standards for that classification of street are included for construction under the permit(s). Said improvements shall include, but not be limited to, pavement, pavement widening, curb and gutter, ADA compliant sidewalk ramps and sidewalks. Where recommended and approved by the City Engineer, the applicant may provide the approved cost of constructing all or portions of the improvements in lieu of constructing them.

The Board of Public Works and Safety shall have the authority to waive the requirements of this section as it deems appropriate.

#### **Section 1060: Continuing Authority of Commission**

Subsequent to the passage of this Ordinance, the Commission may determine the need for the modification of this Article and so recommend said modification to the City Council. If the Council approves the recommendation, the Council shall order the City Engineer to change the map entitled "OFFICIAL INTERMODAL TRANSPORTATION PLAN PLAT" and order the City Planner to make the corresponding changes in article X of the Zoning Ordinance.

#### **Section 1070: Arterial and Collector Designation**

All the thoroughfares comprising this section of Article X are hereby classified Arterial or Collector, as shown on the map entitled "OFFICIAL INTERMODAL TRANSPORTATION PLAN PLAT." The thoroughfares are classified on the basis of type, width and proposed function. Streets not included in this section are local or local collector streets. Where the proposed width is "as platted," no dedication of additional right-of-way is desired or required; the existing right-of-way is sufficient.

#### ARTERIALS

| STREET NAME                    | FROM              | TO                | PROPOSED WIDTH |
|--------------------------------|-------------------|-------------------|----------------|
| Burlington Beach Road          | Campbell Street   | E City Limits     | 80 feet        |
| Calumet Avenue                 | N. City Limits    | Vale Park         | 100            |
| Calumet Avenue                 | Vale Park         | Morgan            | 80             |
| Campbell Street                | Lincolnway        | Brown             | 80             |
| Campbell Street                | Brown             | West              | AP             |
| Campbell Street (AKA Meridian) | Lincolnway        | N. City Limits    | 80             |
| County Road 175W               | CR 500 N          | N. City Limits    | 80             |
| County Road 600N               | Meridian          | State 149         | 60             |
| Evans Avenue                   | Calumet           | E. city Limits    | 80             |
| Froberg Road(150W)             | SR 130            | N. City Limits    | 80             |
| Hayes Leonard Rd.              | Morthland (US 30) | S. City Limits    | 80             |
| Horseprairie                   | West Street       | S. City Limits    | 80             |
| Joliet Road                    | Lincolnway        | Hayes Leonard Rd. | 60             |
| Joliet Road                    | Hayes Leonard     | W. City Limits    | 80             |
| LaPorte                        | Lincolnway        | E. City Limits    | 100            |
| Lincolnway                     | Joliet            | Sturdy            | 80             |
| Lincolnway (AKA State 130)     | Joliet            | W. City Limits    | 100            |
| Morgan                         | Lincolnway        | Calumet           | AP*            |
| Roosevelt                      | Lincolnway        | Vale Park         | 80             |
| Silhavy                        | LaPorte Ave.      | N. City Limits    | 80             |
| Smoke                          | State Route 2     | Division          |                |
| State Route 2                  | Morthland Drive   | City Limits       | 80             |
| State Route 2                  | State Route 49    | East City Limits  | 80             |
| Sturdy                         | Morthland Drive   | LaPorte           | 100            |
| Tower Rd (250W)                | US 30 (Morthland) | S. City Limits    | 80             |
| Vale Park                      | E. City Limits    | W. City Limits    | 80             |
| Washington                     | Lincolnway        | S. City Limits    | AP*            |
| West                           | Horseprairie      | Campbell          | 80             |

#### COLLECTORS

| STREET NAME | FROM      | TO       | PROPOSED WIDTH |
|-------------|-----------|----------|----------------|
| Axe         | Morthland | Union    | 60             |
| Beech       | Calumet   | Sturdy   | AP*            |
| Beech       | Sturdy    | Chicago  | 60             |
| Brown       | Napoleon  | Campbell | AP*            |

|                  |                  |                   |        |
|------------------|------------------|-------------------|--------|
| Brown            | Washington       | Morgan            | AP*    |
| Bullseye Lake    | Campbell         | Calumet           | 60     |
| Calumet          | Morgan           | Franklin          | AP*    |
| Chicago          | Lincolnway       | Roosevelt         | AP*    |
| Chicago          | Roosevelt        | Silhavy           | 60 (1) |
| Cityview Drive   | Smoke Road       | US 30             | 60     |
| Comeford         | Sturdy           | Morthland         | AP*    |
| County Club      | Calumet          | Silhavy           | 60     |
| County Rd. 375N  | Froberg Rd.      | SR 130            | 60     |
| Eisenhower       | Roosevelt        | Silhavy           | 50 (2) |
| Evans            | Washington       | Calumet           | 60     |
| Franklin         | Glendale         | Brown             | AP*    |
| Franklin         | Brown            | South             | 60     |
| Garfield         | Union            | Beech             | AP*    |
| Glendale         | Campbell         | Silhavy           | 60     |
| Goodrich Road    | Ransom           | North City Limits | 60     |
| Harrison         | Calumet          | Campbell          | AP*    |
| Harrison         | Campbell         | W. City Limits    | 60     |
| Hayes-Leonard    | Joliet           | Morthland         | 60     |
| Hayes-Leonard    | Morthland        | South City Limits | 60     |
| Howe             | Lincolnway       | Yellowstone       | 60     |
| Indiana          | Campbell         | Garfield          | AP*    |
| Jefferson        | Roosevelt        | Weston            | AP*    |
| Joliet           | Lincolnway       | W City Limits     | 60     |
| LaPorte          | Garfield         | Lincolnway        | AP*    |
| Linwood          | Union            | Morthland         | 60     |
| Martinal Road    | Sager            | Sturdy            | 60     |
| Michigan         | Calumet          | Brown             | AP*    |
| McCord           | Calumet          | Silhavy           | 60     |
| Monroe           | Napoleon         | Garfield          | AP*    |
| Morgan           | Calumet          | Union             | AP*    |
| Murvihill Road   | West City Limits | East City Limits  | 60     |
| Napoleon         | Brown            | Chicago           | AP*    |
| Nickel Plate     | Franklin         | Axe               | 60     |
| Old Oak          | Harrison         | Vale Pk/Goodrich  | 60     |
| Park             | Yellowstone      | Campbell          | 60     |
| Penna Hill       | Silhavy          | Sturdy            | 60     |
| Ransom           | Campbell         | W City Limits     | 60     |
| Roosevelt        | Lincolnway       | LaPorte           | 60     |
| Sager            | Cityview Dr.     | Division          | 60     |
| Silhavy          | LaPorte Ave.     | S. City Limits    | 60     |
| South            | Washington       | Franklin          | 60     |
| St. Clair Road   | State 149        | Meridian          | 60     |
| Strongbow Centre | Penna Hill       | Morthland         | AP     |
| Sturdy           | LaPorte          | Vale Park         | 60     |
| Sturdy           | Morthland        | South City Limits | 60     |

|                  |                   |                  |     |
|------------------|-------------------|------------------|-----|
| Thornapple Way   | Morthland         | State Route 2    | AP  |
| Tower Rd. (250W) | US 30 (Morthland) | N. City Limits   | 60  |
| Union            | Morgan            | Garfield         | 60  |
| Valparaiso       | Evans             | Burlington Beach | 60  |
| Washington       | Glendale          | Brown            | AP* |
| West             | Morthland         | Horseprairie     | 60  |
| Yellowstone      | Lincolnway        | Harrison         | 60  |
| 325 E            | Division          | Murvihill        | 60  |

\* As Platted

- (1) This extension of Chicago Street shall not include extensions of Mayfield or Harmel streets.
- (2) Right-of-Way width as platted through Worthington Gates and Whitcombs subdivisions.

Part II  
Article XI

**PLACEMENT OF TYPE I MANUFACTURED HOMES**

**Section 1100: Intent**

**A. Type I Purpose**

It is the intent of this ordinance to encourage the provision of alternative housing in general residential areas by permitting the use of Type I manufactured homes, as defined herein, in all districts with similar dwellings constructed on site are permitted, subject to the requirements and procedures set forth herein to assure acceptable similarity in exterior appearance between such Type I manufactured homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent or nearby lots in the same district.

**Section 1110: Definitions**

**A. ANSI/NFPA 501 A Installation Standards**

Standards for installation of manufactured homes, Type I as adopted and copyrighted by the Manufactured Housing Institute and the National Fire Protection Association contained within their publication: "Standard for the Installation of Mobile Homes"

**B. Manufactured Home**

A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code or Indiana Public Law 360, Acts of 1971, as promulgated by the Indiana Administrative Building Council. Manufactured home, Type I is defined as meeting all of the appropriate requirements of Article IV of this chapter.

**C. Manufactured Housing Construction and Safety Standards Code**

Title VI of the 1974 Housing and Community Development Act (Public Law 93-383, U.S.C. 5401 et sequential), as amended (previously known as the federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder, which include information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, who is an agent of the U.S. Dept. of Housing and Urban Development pursuant to HUD rules, and regulations and interpretations of said code by the Indiana Administrative Building Council.

**D. Occupied Space**

The total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

**E. One and Two Family Dwelling Code**

The nationally recognized model building code prepared by the Council of American Building Officials, adopted by the Indiana Administrative Building Council (ABC) and, which includes those supplements and amendments promulgated by the ABC.

**Section 1120: Applicability****A. Permitted Placement**

The establishment, location and use of Type I manufactured homes as permanent residences approved individually, by specific materials, or by design, shall be permitted in any zone permitting installation of a dwelling unit, subject to requirements and limitations applying generally to such residential use in the district, and provided such homes shall meet the following requirements and limitations:

- 1) the dwelling shall reset the appropriate Exterior Appearance Standards, as hereinafter set forth in Article IV.
- 2) the dwelling shall be sited in a district where such use is permitted.
- 3) the dwelling shall receive all required permits and conform with the Comprehensive Plan and other ordinances of the City of Valparaiso.

**B. Non-conforming Homes**

A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal non-conforming use prior to the adoption of this ordinance, shall continue to be a legal non-conforming use. If the non-conforming use is discontinued, the land thereafter must be used in conformity with all provisions of the zoning ordinance.

**C. Replacement of Non-conforming Homes**

Thereafter, upon application to the Building Commissioner, subsequent approval thereof, a manufactured or mobile home, deemed a legal non-conforming use, may be replaced by a manufactured home, provided the replacement is of an equal or a higher type, as specified in Article IV of this ordinance, the Exterior Appearance Standards. Equal or higher type means that a mobile home may be replaced with a Type I manufactured home or another mobile home; a Type I manufactured home could be replaced with another Type I manufactured home.

**Section 1130: Exterior Appearance Standards****A. Manufactured Home Classification**

Manufactured homes shall be classified as to acceptable compatibility or similarity in appearance with site-constructed residences, as follows:

- 1) a Type I manufactured home shall:
  - a. have been constructed after January 1, 1981,
  - b. have more than nine hundred and fifty (950) square feet of occupied space in a double-section or larger multi-section unit,
  - c. be placed onto a permanent, underfloor, foundation in accordance with approved Installation Standards, as specified in Article VI,
  - d. be placed onto a permanent exterior perimeter retaining wall, in accordance with approved Installation Standards, as specified in Article VI,
  - e. be anchored to the ground, in accordance with approved Installation Standards, as

- specified in Article VI,
- f. have wheels, axles and hitch mechanisms removed,
- g. meet appropriate utility connection standards, in accordance with approved Installation Standards, as specified in Article VI,
- h. have siding material of a type customarily used on site-constructed residences - see Approved Materials List as provided below: \*
- i. have roofing material of a type customarily used on site-constructed residences - see Approved Materials List as provided below: \*
- j. each single-family dwelling with one and one half (1½) or more stories shall have a minimum first floor area of not less than nine hundred and fifty (950) square feet,
- k. have a minimum width of twenty-three (23) feet.

\* Approved siding and roofing materials lists for Type I Manufactured Homes

**Siding:**

1. residential horizontal aluminum lap siding
2. residential horizontal vinyl lap siding
3. cedar or other wood siding
4. wood grain, weather resistant, press board siding
5. stucco siding
6. brick or stone siding

**Roofing:**

1. asbestos shingles on a roof pitched according to the design specifications of the shingles
2. fiberglass shingles on a roof pitched according to the design specifications of the shingles
3. shake shingles on a roof pitched according to the design specifications of the shingles
4. asphalt shingles on a roof pitched according to the design specifications of the shingles
5. tile materials on a roof pitched according to the design specifications of the materials

**Section 1140:                      Schedule Of Uses**

Type I Manufactured Homes are permitted uses, as follows:

|                                  |                                    |
|----------------------------------|------------------------------------|
| Low Density Residential (R-1A)   | With Special Exception Permit Only |
| Single Family Residential (R-1)  | Permitted                          |
| Medium Density Residential (R-2) | Permitted                          |
| High Density Residential (R-3)   | Permitted                          |
| Mobile Home Park                 | Prohibited Use                     |
| All Business Districts           | Permitted                          |
| All Manufacturing Districts      | With Special Exception Permit Only |

**Section 1150:                      Installation Standards**

**A. Perimeter Retaining Wall**

Those manufactured homes designated in the zoning ordinance, as requiring permanent perimeter retaining walls must be set onto an excavated area, with foundations, footings and crawl space or basement walls constructed in accordance with the terms of the One and Two Family Dwelling Code. The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter retaining wall.

The wall shall be closed of solid masonry, concrete, all-weather wood, or other approved materials, which in all cases shall extend below the frost line. The design, by a registered professional engineer or architect, shall safely support those loads, as determined by the character of the soil.

## B. Support System (Foundation)

### 1) Type I Manufactured Homes:

All HUD-Code Type I Manufactured Home foundations shall be installed in conformance with the regulations in the One and Two Family Dwelling Code and with the manufacturer's installation specifications.

### 2) FL 360 Code Homes:

All FL 360 Code Home foundations shall be installed in conformance with the regulations in the One and Two Family Dwelling Code and with the manufacturer's installation specifications.

### 3) Pier Design:

In addition to the above code requirements, the following minimum design standards shall apply to all manufactured homes:

#### a) Piers and Caps:

Piers of load bearing supports or devices shall be designated and constructed to evenly distribute the loads. Piers shall be securely attached to the frame of the home or extend at least 6 inches from the centerline of the frame member. Manufactured load bearing supports or devices shall be approved for the use intended, or piers shall be constructed as follows:

1. when single 8" x 8" x 16" concrete blocks are used, they shall not exceed 3' high, with open cells vertically pieced upon the footing and with the 16" dimension perpendicular to the I-beam frame, and than shall be covered with 2" x 8" x 16" preservative-treated hardwood or solid concrete block caps,
2. when 4" high and 5" high block piers are used, they shall be double blocked with .interlocking concrete blocks and they shall be covered with 4" x 8" x 16" preservative-treated hardwood or solid concrete block caps,
3. for piers extending more than 40 inches above finished grade level, they shall be double blocked with interlocking concrete blocks, with Number Three reinforcing steel in the four corners, poured solid with 2,500 psi concrete, and they shall be covered with 4" x 8" x 16" preservative treated hardwood or concrete caps.

#### b) Plate and Shims:

The plate shall be a cushion of preservative-treated hardwood or other approved material no exceeding 2" in thickness. The preservative-treated hardwood shims, which cannot exceed 1" in thickness, shall be used to fill the gap between the top of the pier cap and the frame of the home. Two-inch or four-inch solid concrete blocks may be used to fill the remainder of any gap. Shims shall be fitted and driven tight between the plate and the main frame.

## C. Anchoring System

All manufactured homes shall be anchored meeting one of the following approved standards:

- 1) Installation pursuant to manufacturer's specifications.
- 2) Installation pursuant to the design of the entire support and anchoring system by a registered professional engineer or architect.
- 3) Installation pursuant to the regulations established in the ANSI/N-FPA 501 A Installation Standards.
- 4) Installation pursuant to standards and requirements of the building department.
- 5) Installation pursuant to the standards and requirements of the utility company, as approved by the building department.

## **Section 1160: Permits**

### **A. Improvement Location Permit**

#### **1) Requirements:**

Prior to the location, relocation or establishment of any Type I manufactured home, the homeowner or authorized representative shall secure from the Building Commissioner an Improvement Location Permit, which states that the building and its location conform to the Comprehensive Plan. Each application for an Improvement Location Permit shall be accompanied by:

- a. Those plot plans as required for all dwelling units, but which at a minimum include elevations or photographs of all sides of the home, exterior dimensions, roof materials, foundation siding or perimeter retaining wall treatment, foundation construction and materials, exterior finishes and the like (see Building Permit).
- b. Health department approval for any sewage disposal or water supply, where applicable.
- c. P.U.D. or subdivision permit approval, where applicable.
- d. A copy of the approved installation instructions, which will be used for installation purposes, where applicable.
- e. Such other information as may be required by the Building Commissioner for proper enforcement of this ordinance.
- f. An agreement signed by the home owner or authorized representative pledging compliance with the terms set by the Plan Commission in the Improvement Location Permit.

#### **2) Issuance of Permit**

After receipt of the information required for an Improvement Location Permit, the Building Commissioner shall review the standards set in this ordinance. If the applicant has met all required standards, then within three days the Building Commissioner shall issue the Improvement Location Permit.

#### **3) Additional Action Necessary**

If after receipt of the information, required for an Improvement Location Permit, the Building Commissioner finds that the applicant has not fully met the standards set in the ordinance and the changes or additional actions needed are deemed by the Commissioner to be relatively minor or simple, within 10 days a conditional approval can be issued, with the stated conditions which must be met prior to occupancy spelled out, and the reasons for change clearly stated in writing. If the applicant agrees in writing to the further conditions, the effect

being an amendment to the application to conform to the requirements, approval is given and the applicant proceeds. If the applicant does not agree, the application is denied, with reasons stated in writing.

4) Denial of Permit

If any of the major elements are clearly out of line with the standards, within 10 days issuance of the Improvement Location Permit will be denied, with a written statement specifying the reasons for the denial.

B. Certificate of Occupancy

Prior to the occupancy of any manufactured home, Type I, the homeowner or authorized representative shall secure from the Building Commissioner a Certificate of Occupancy, stating that the building and its use currently with all provisions of the ordinance applicable to the building or the use in the district in which it is to be located.

**Section 1170:           Penalty For Violation**

A. Failure to Comply

Each day of non-compliance with the provisions of this ordinance constitutes a separate and distinct ordinance violation. Judgment of up to one thousand dollars (\$1,000.) per day may be entered for a violation of this ordinance.

B. Subject to Removal

A home, sited upon property in violation of this ordinance, shall be subject to removal from such property. However, the homeowner must be given a reasonable opportunity to bring the property into compliance before action for removal can be taken. If action finally is taken by the appropriate authority to bring compliance, the expenses involved may be made a lien against the property.

C. Removal Method

The Commissioner may institute a suit in an appropriate court for injunctive relief to cause such violation to be prevented, abated or removed.

**Section 1180:           Severability Clause**

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance. It is being expressly declared that this ordinance and each section, subsection, paragraph, sentence, clause and phrase would have been adopted regardless of the fact that any one or more of the above be declared invalid or unconstitutional.

## **Part 2**

### **Article XII**

#### **ADMINISTRATION, PERMITS AND ENFORCEMENT**

##### **Section 1200 Administration and Enforcement**

The provisions of this Ordinance shall be administered and enforced as provided herein.

##### **Section 1201 Planning Director**

The Planning Director (City Planner), and/or his designee, shall administer and enforce, or share in the administration and enforcement of the following Articles of this Ordinance:

1 thru 5, 7 through 10, 12 thru 27, and 29 thru the end of the Ordinance.

The Planner shall provide input regarding the issuance and release of Building Permits, Site Permits, and Occupancy Permits. The planner shall have the authority to enter property to make inspections, as required to carry out necessary administration and enforcement.

##### **Section 1202 Building Commissioner**

The Building Commissioner, and/or his designee, shall administer and enforce, or share in the administration and enforcement of all of the Articles of this Ordinance.

Notwithstanding the requirements of the State Statutes, the Building Commissioner shall have the authority to grant or deny Building Permits and/or Occupancy Permits and to enter property to make inspections necessary for the administration and enforcement of this ordinance.

##### **Section 1203 City Engineer**

The City Engineer (Engineering Director), and/or his designee, shall administer and enforce, or share in the administration and enforcement of the following Articles of this Ordinance:

1 and 2, 4, 6 and 7, 10, 12, 27 and 28, and 34 and 35.

The Engineer shall have the authority to issue or deny Site Permits, and to enter property to make inspections necessary for the administration and enforcement of this ordinance.

##### **Section 1210 Permits**

This section pertains to the administration and enforcement of the Building Permit, Certificate of Occupancy, and Site Permit processes.

1. Building Permits It shall be unlawful for any person, company, corporation, or similar entity, to begin any improvement, construction, reconstruction, or repair of any existing or new building or structure, except as provided herein, without first obtaining a

Building Permit from the Building Commissioner. Activities requiring a building permit include, but are not limited to:

- a) installation or construction of any roofing or re-roofing, fences or swimming pools (above and in-ground);
- b) installation or construction of a sign (See Article IV), tower, shed, gazebo, shelter, deck, porch, carport, patio, kennel (anchored to ground) garage, or room addition (includes custom built or prefabricated three season rooms or sun rooms);
- c) construction, reconstruction, repair, moving or demolition of any residential, commercial, municipal, recreational, institutional, or industrial building or structure;
- d) alteration or remodeling of an existing building or structure that includes any changes in structural members, stairways, basic construction, type, kind or class of occupancy, light or ventilation, means of ingress and/or egress, or any other change(s) affecting or regulated by the Building Code or this Ordinance, except for minor repairs or changes not involving any of the aforesaid provisions. (See also definition of term Alteration in article II).

No permit shall be issued for any work or project until an application has been submitted in accordance with the provisions of this Ordinance, showing that the construction proposed is and/or will be in compliance with the provisions of this Ordinance and with the Building Code(s).

A record of all Building permits shall be kept in the office of the Building Commissioner and copies of the permits shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.

Note that for many activities, a Site Permit will be required before the Building Permit can be issued.

2. Certificates of Occupancy                      It shall be unlawful to use, or permit the use, of any land, building or structure for which a Building Permit is/was required, and to use, or permit to be used, any building or structure hereafter altered, extended, erected, remodeled or moved, until the Building Commissioner shall have issued a Certificate of Occupancy stating that the completed project complies with the provisions of this and all other pertinent ordinances. Note that **the issuance of a final inspection “green tag” (inspection card) does not constitute issuance of a Certificate of Occupancy.**

- a) Certificate of Occupancy. No Certificate of Occupancy for any building or structure, erected, altered or repaired after the adoption of this Ordinance, shall be issued unless such building or structure was erected, altered or repaired in compliance with the provisions of this ordinance and the Building Code. It shall be unlawful to occupy any such building or structure unless a

full, partial or temporary Certificate of Occupancy has been issued by the building Commissioner.

- b) Certificates for Existing Buildings Certificates of Occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if after inspection it is found that such buildings, structures, or parts thereof, or such use of land, comply with the provisions of this and all other pertinent ordinances.
- c) Temporary Certificates The Building Commissioner may issue a temporary Certificate of Occupancy provided that the temporary Certificate of Occupancy shall not remain in force more than 15 days (except for weather related conditions) after the building or structure is fully completed and ready for occupancy, and provided further that such building, structure and/or site is in conformity with the provisions of this Ordinance, the Building Code and all other pertinent ordinances. A request for a temporary Certificate of Occupancy shall be submitted on a form prepared by the Building Commissioner and assessed the fee established in the Municipal Code.
- d) Partial Certificates of Occupancy The Building Commissioner may issue a partial Certificate of Occupancy for part of a building, structure or site prior to the occupancy of the entire building, structure or site, provided that such portions of the building, structure or site are in conformity with the provisions of this Ordinance, the Building Code and all other pertinent ordinances. Partial Certificates of Occupancy will not be issued on one and/or two family dwellings.
- e) Records of Certificates A record of all Certificates of Occupancy shall be kept in the office of the Building Commissioner and copies of such Certificates of Occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.
- f) Certificates for Accessory Buildings to Dwelling Accessory buildings or structures to dwellings shall not require a separate Certificate of Occupancy, but rather may be included in the Certificate of Occupancy for the principal dwelling, building or structure on the same lot when such accessory buildings or structures are completed at the same time as the principal use.
- g) Application for Certificates Certificates of Occupancy shall be applied for in writing to the Building Commissioner on forms provided by the Building Commissioner. The Certificate shall be issued if it is found that the building, structure or site, or part thereof, complies with the provisions of this or other pertinent ordinances. If such Certificate is refused for cause, the applicant therefore shall be notified of such refusal and the cause thereof.
- h) Certificates for Nonconforming Buildings and Uses Reference is made to Article V, Section 545.

3. Site Permits            It shall be unlawful for any person, company, corporation or similar entity to begin any clearing, grading, excavation, fill, land disturbing activity, or construction of any site improvement, except as provided herein, without first obtaining a Site Permit from the City Engineer. Activities requiring a site permit include, but are not limited to:

- a) tree removal in excess of (G)(1) or (G)(2) in Section 3140 of Part IV, Article XXXI of this Ordinance.
- b) any excavation, fill, or earthmoving involving an earthwork quantity greater than 10 cubic yards.
- c) construction, paving, or re-paving of any driveway, private street, parking lot, sidewalk or path.
- d) construction of any paved surface greater than 100 square feet in area.
- e) construction or installation of any sewer, pipe, swale, or ditch for drainage purposes, except footing tiles or roof drainage interior to a structure.
- f) installation of any exterior lighting for any site or use except single-family, duplex, or three-plex units.

4. Façade Improvement Permits (within special overlay districts) It shall be unlawful for any person, company, corporation or similar entity, to begin any improvement, construction, repair or substantial maintenance of any building façade visible from a public Right-of-Way without first obtaining a Façade Improvement Permit from the Planning Director. **Note that the issuance of a façade Improvement Permit does not constitute issuance of a Building Permit. Any improvement requiring a Building Permit will still be required to obtain said permit prior to construction.** Activities requiring a Façade Improvement Permit include, but are not limited to:

- a) Installation of any siding or any change in building materials on an existing building façade;
- b) Any replacement of doors or windows regardless of existing size, shape or type;
- c) Painting or repainting any building façade a color that presently does not exist as the primary color of the existing façade;
- d) Alterations or cosmetic changes, repairs or maintenance that changes in any way the appearance of any façade visible from a public right-of-way;

A façade improvement permit will not be required for cleaning, repainting of a façade the same color or maintenance not affecting the appearance of the facade.

Any façade change effecting 25% of the façade or greater will require compliance with any overlay design standards regulating design within the district.

No permit shall be issued for any work or project until an application has been submitted in accordance with the provisions of this Ordinance, showing that improvements proposed is and/or will be in compliance with the provisions of this Ordinance and with any Overlay standards or Building Codes.

Where appropriate the Erosion Control Permit, the Right-of-Way Cut Permit, and/or the Sanitary Sewer Permit may be incorporated into the Site Permit Process and form at the discretion of the City Engineer.

#### Section 1215                    **Applications**

Applications for permits or Certificates of Occupancy shall be in writing on forms provided by the Building Commissioner and/or City Engineer.

Supporting data shall be furnished with the applications for permits. The supporting data shall be sufficient to allow the reviewer to make an informed decision as to whether the project will meet the requirements of this and other pertinent ordinances, standards, or statutes.

Supporting data may include but is not limited to:

- |                                        |                      |
|----------------------------------------|----------------------|
| a) building plans                      | f) access plans      |
| b) site and drainage plans and details | g) soils reports     |
| c) utility plans                       | h) landscaping plans |
| d) erosion prevention plans            | i) lighting plans    |
| e) sediment control plans              | j) restoration plans |

Supporting data shall be prepared by appropriate design professionals as required by this or other ordinances or state statutes.

Applications for permits shall be signed by the individuals who will be responsible for the prosecution and completion of the work.

#### Section 1220                    **Fees**

1. The amount of the fees for Building Permits, inspections related to Building Permits, and Certificates of Occupancy, shall be established by the Common Council, and shall be sufficient to cover the cost of inspection and supervision resulting from the administration and enforcement of this Ordinance.

Fees shall be collected by the Building Commissioner at the time of application. The fees shall be deposited in the General Fund of the City of Valparaiso.

2. There shall be no separate or additional fees charged for the Site Permit, except that the fees for Erosion Control Permits, Right-of-Way Cut Permits, Sanitary Sewer Permits

and related fees as established by the provisions of the pertinent existing ordinances may be collected under the umbrella of a Site Permit.

#### Section 1225 **Permit Term and Validity**

1. The term and length of permit validity for Building Permits is set by the Building Code.
2. For a Site Permit:
  - a) if the work is not started within three months of the date of issuance, the permit shall be null and void
  - b) if there is a lull of 6 months or greater in the prosecution of the work, the City Engineer may declare the permit null and void.
3. Notwithstanding the limitations of 1 and 2 above, Building and Site Permits shall remain in full force and effect under the responsibility of the applicant until such time as:
  - a) the work is determined to be completed and in conformance with the requirements of the permit, or
  - b) a follow-up permit is issued for the work remaining to be completed.

The transfer of ownership of the site shall not terminate the applicant's responsibilities under the permit(s) until a) or b) above is satisfied.

#### Section 1230 **Release of Permit**

##### 1. Final Inspection

The recipient of any Building Permit shall notify the Building Commissioner immediately upon the completion of the work authorized by such permit for a final inspection and the issuance of an Occupancy Permit. The issuance of a final inspection "green tag" (inspection card) does not constitute the issuance of a Certificate of Occupancy.

The recipient of any Site Permit shall notify the office of the City Engineer upon the completion of the work. The Engineer shall perform an inspection of the subject site to verify the satisfactory completion of the work. If the work is completed and meets the requirements of the plans, Standards and Ordinances, the permit shall be released. If the work is not completed and/or does not meet the requirements of the plans, Standards or Ordinances, the applicant shall be notified of the deficiency (ies).

##### 2. Follow-up Permit

A Building and/or Site Permit may also be released if a "follow-up permit" is issued for the work remaining to be completed under the original permit.

#### Section 1235 **Enforcement**

When determined necessary the provisions of the ordinance may be enforced through one or more of the following actions:

The Building Commissioner, Planning Director or City Engineer may initiate enforcement actions 1 or 2 below for violations of sections of this ordinance under their purview as listed in Sections 1201, 1202 and 1203.

### 1. Stop Work Orders

- a) The Building Commissioner may post a stop work order per the provisions of chapter 150 of the Municipal Code for any work not conforming to the requirements of this ordinance or the Building Code. The stop work order may be lifted only after the work has been made to conform with this ordinance.
- b) The Planning Director and/or City Engineer may post a stop work order for any work not conforming to the requirements of the sections of this Ordinance under their purview.

### 2. Fines For Violations

In addition to any and all other remedies set forth in this ordinance for a violation thereof, the Building Commissioner and/or City Engineer may, for any violation of this ordinance, levy a fine against the violator(s) of up to the maximum allowed by State statute for each occurrence, each day being a separate occurrence. The Building Commissioner and/or City Engineer shall notify the violator(s) of such fine, in writing, on a form approved by the Board. The violator shall pay the levied fine through the Local Ordinance Violations Bureau. The Building Commissioner and/or City Engineer may levy a fine for each and every day that the violation is continued.

### 3. Withhold Permits

The Building Commissioner or the City Engineer, may refuse to issue Building Permits or Site Permits to any applicant who is in violation of this ordinance and has received notification of that violation. The permits may be for sites other than those where the violations have occurred. The Building Commissioner or the City Engineer, may withhold issuance of the permits until the violations are corrected.

### 4. Revocation of Surety

In the event that other enforcement remedies listed herein do not cause the correction of the violation(s) the Commission, acting on the recommendation of the Building Commissioner, Planning Director and/or City Engineer may initiate a claim upon any bond or surety posted with the application or with the contractor's registration. The Commission may seek recovery of any costs associated with the correction of the violation(s) along with any fines levied and not paid.

### 5. Court Action

In addition to any and all other remedies set forth in this ordinance for a violation thereof, the Building Commissioner, Planning Director and/or City Engineer may, for any violation of this ordinance, levying a fine against the violator(s) of up to the maximum amount allowed according to the Local Ordinance Violations Bureau for each occurrence, each day being a separate occurrence. The Building Commissioner, Planning Director and/or City Engineer shall notify the violator(s) of such fine, in writing, on a form approved by the Board. The violator shall pay the levied fine through the Local Ordinance Violations Bureau. The Building Commissioner, Planning Director and/or City Engineer may levy a fine for each and every day that the violation is continued.

Section 1236                    **Appeals**

An applicant subjected to an enforcement action under Section 1235, sub-sections 1, 2, 3 or 4 above, may appeal the enforcement action through the Board. The appeal shall conform with the normal process for petitions coming before the Board.

Section 1237                    **Fees for Planning Actions and Petitions**

The fees for Planning Actions and Petitions before the Plan Commission shall be as follows:

|                                       |                     |
|---------------------------------------|---------------------|
| _____ Rezoning:                       | \$150               |
| _____ Subdivision Primary Plat:       | \$150 + \$5 per lot |
| _____ Subdivision Amendment           | \$100 + \$2 per lot |
| _____ Planned Unit Development (PUD): | \$250 + \$5 per lot |
| _____ Major PUD Amendment             | \$150 + \$2 per lot |
| _____ Minor Subdivision (Lot Split)   | \$150               |
| _____ Subdivision Final Plat          | \$100 + \$2 per lot |
| _____ Minor PUD Amendment             | \$100               |
| _____ Annexation:                     | \$250               |
| _____ Design/Architectural Approval   | \$100               |
| _____ _____ Overlay District          |                     |
| _____ Special Meeting Fee             | \$500               |

The fees for Planning Actions and Petitions before the Board of Zoning Appeals shall be as follows:

|                                                    |       |
|----------------------------------------------------|-------|
| _____ Use Variance                                 | \$150 |
| _____ Single Family Development Standards Variance | \$50  |
| _____ Commercial Development Standards Variance    | \$150 |
| _____ Special Exception                            | \$100 |
| _____ Special Exception for Home Occupation        | \$100 |
| _____ Relief to an Administrative decision         | \$100 |
| _____ Special Meeting                              | \$500 |
| _____ Conditional Use                              | \$100 |

Section 1240                    **Board of Zoning Appeals**

1. Creation of Board of Zoning Appeals. A Board of Zoning Appeals is hereby established in accordance with Indiana Code 36-7-4-900, et seq., and all acts amendatory thereto.
2. Composition and Appointment. The Board of Zoning Appeals shall be composed of five (5) members, all of whom shall be residents of the City of Valparaiso. Each member shall serve a term of four (4) years, and said term shall expire on the first (1st) Monday of January on the fourth (4th) year after the member's appointment. Members of the Advisory Board of Zoning Appeals shall be appointed as follows:

- a. Three (3) citizen members appointed by the Mayor, of whom one (1) must be a member of the Plan Commission and two (2) must not be members of the Plan Commission.
- b. One (1) citizen member appointed by the Common Council of the City of Valparaiso who must not be a member of the Plan Commission.
- c. One (1) citizen member appointed by the Advisory Plan Commission who must be a member of the Advisory Plan Commission other than the member appointed under (a).

If a vacancy occurs among the members of the Advisory Board of Zoning Appeals, the Mayor shall appoint a member for the unexpired term of the vacating member. In addition, the Mayor may appoint an alternate member to participate with the Board in any hearing or decision in which the regular member has a direct or indirect financial interest. The Board shall note in the official minutes of the meeting the fact that a regular member has disqualified himself and shall also indicate the name of the alternate member who participated in the hearing and the decision.

3. Organization. At the first (1st) meeting of each year the Board shall elect a chairman and vice-chairman from its members. It may appoint and fix the compensation of a recording secretary and such employees as are necessary for the proper discharge of its duties, all in conformity to and in compliance with salaries and compensation theretofore fixed by the Common Council.
4. Meetings and Records. All meetings of the Board shall be open to the public. The chairman shall preside at all meetings, except that during the absence or disability of the chairman, the vice-chairman shall have the authority to act as chairman. The Board shall keep minutes of its proceedings, keep records of all examinations and other actions, prepare written findings of fact and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be of public record.
5. Rules and Regulations. The Board shall adopt such rules and regulations as it may deem necessary to effectuate the provisions of this Ordinance.
6. Quorum. The majority of the members of the Advisory Board of Zoning Appeals shall constitute a quorum. No action of the Board of Zoning Appeals shall be official, however, unless authorized by the affirmative vote of the majority of the entire membership of the Board of Zoning Appeals.
7. Powers and Duties of the Board of Zoning Appeals. The Advisory Board of Zoning Appeals shall have the following powers and it shall be its duty to:
  - A. **Appeals.** Hear and determine from and review any order, requirement, decision or determination made by the Building Commissioner or any other administrative official, hearing officer or staff member. Hear and determine appeals from and review any order, requirement, decision or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of the Zoning Ordinance. Hear and determine appeals from and review any order, requirement, decision or determination made by an administrative board or other

body except the Plan Commission in relation to the enforcement of this Ordinance concerning the issuance and procurement of improvement location or occupancy permit.

**B. Special Exceptions.**

- 1) hear and approve or deny all requests for special exceptions, special uses, contingent uses and conditional uses from the terms of the Zoning Ordinance but only in the classes of cases as the Advisory Board of Zoning Appeals has been specifically authorized to grant by the Zoning Ordinance. A special exception can be granted only upon the written finding that the following criteria have been met:
  - a.) Excessive vehicular traffic is not generated on minor residential streets;
  - b.) Vehicular parking or traffic problem is not created;
  - c.) Appropriate access road, drives, walks, utilities, drainage facilities and other necessary facilities have been or will be installed;
  - d.) The proposed use will make a substantial contribution to the neighborhood environment and not infringe on the rights of properties in the vicinity of the excepted use;
  - e.) The requirements of the district in which the use is to be located shall be complied with.
- 2) The Board may impose reasonable conditions as part of its approval. In determining the conditions to be imposed, the Board shall take into consideration the intent of this Ordinance and may impose reasonable conditions that:
  - a.) Abate or restrict noise, smoke, dust or other elements that may affect surrounding property;
  - b.) Establish setback, side and front yard requirements necessary for orderly expansion and to prevent traffic congestion;
  - c.) Provide for adequate parking, ingress and egress to public streets or roads;
  - d.) Provide adjoining property with a buffer or shield from the view of the proposed use if such use is considered to be detrimental to adjoining property;
  - e.) Tend to prevent such use from changing the character and established pattern of the development of the community;
  - f.) Time limits, which the proposed use shall be started and completed or both.

**C. Use Variances.** Approve or deny variances of use from the terms of the Zoning Ordinance. Variance of use may be granted only upon determination by the Board in writing that:

- 1) Approval will not be injurious to the public health, safety, morals and general welfare of the community;

- 2) The use and values of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- 3) Need for the variance arises from some condition peculiar to property involved;
- 4) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought;
- 5) The approval does not interfere substantially with the Comprehensive Plan; and
- 6) The Board may impose reasonable conditions upon its approval in the same manner as in Paragraph b. above.

**D. Variance from Development Standards.** The Board shall approve or deny requests for variance from the development standards (such as height, bulk or area). A variance from the development standards may be approved only upon a determination of the Board in writing that:

- 1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- 2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and,
- 3) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

**E. Conditional Use.** The Board may approve reasonable conditions upon its approval set forth in d. above.

**8. Procedure Before the Board of Zoning Appeals.**

**A. Administration Review.** Appeals to the Board may be taken by any person aggrieved or by any officer of the City affected by any decision of the Building Commissioner or any other administrative board, hearing officer or staff person where it is alleged there is an error in any order, requirement, decision or determination by said Building Commissioner in enforcing the Zoning Ordinance.

An appeal filed with the Board must specify the grounds of the appeal and must be filed within thirty (30) days from the date of the ruling being appealed from, and must be in such form as is prescribed by the Board or by the City Planning staff.

In exercising its powers, the Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the Building Commissioner or other administrative board or other body appealed from.

**B. Variances and Exception.** Application for a variance or special exception shall be in such form as is prescribed by the Board or by the City Planning staff.

The applicants shall include a dimensional sketch plat of the proposed special exception or variance showing the existing conditions, utility and street facilities,

and the use of the proposed site and boundaries of the proposed site and adjoining properties. All requests for a special exception or variance must be accompanied by public notice in accordance with the provisions of Burns Indiana Code 5-3-1-1, et seq., and due notice to interested parties as determined by the Board of Zoning Appeals shall be given at least ten (10) days before the date set for the hearing. The party requesting the variance or special exception shall be required to assume the cost of public notice and due notice to interested parties.

**Commitment.** In the case of a petition for a variance, special exception, conditional use, the Board may require or permit the owner of a parcel of property to make a written commitment concerning the use and development of the parcel. The commitment shall be on a form prescribed by the Board and shall be enforceable by the Board of Zoning Appeals for the City of Valparaiso or by those other persons specified by the Board in the commitment. The commitment shall be recorded in the Office of the Recorder of Porter County. Unless modified or terminated by the Board after public hearing, the commitment after recording shall be binding on the owner of the parcel and on every subsequent owner or any other person acquiring an interest in the parcel. The commitment does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with the law.

Part III  
Article XIII

**OS, OPEN SPACE DISTRICT**

**Section 1300                    Statement of Purpose**

The OS, Open Space District is designed to allow the City of Valparaiso to preserve and maintain agricultural land within the corporate limits of the City, to prevent development on environmentally hazardous land, such as land with steep slopes or unsuitable soils, or land susceptible to flooding or ponding, and to preserve important natural resources in the Valparaiso area for open space or future park use.

**Section 1310                    Permitted Uses**

1. For Permitted Uses in areas designated OS-Floodway, see Article VI, Floodplain Management.
2. Agriculture - Land, including necessary buildings and structures, not less than ten (10) acres in size, used specifically for the purpose of producing crops, livestock, poultry, or dairy products.
3. Residential uses - Existing farm dwellings and one additional dwelling on unsubdivided land.
4. Parks, playgrounds, and non-commercial recreational areas, and accessory structures to such uses.
5. Uses customarily accessory to the pursuit of agriculture, provided that permanent structures for the shelter of livestock, poultry, and other farm animals shall be located not less than one hundred (100) feet from a lot line.
6. Roadside stands for the sale of produce grown in the immediate area of the premises, but not including live animals and provided that such stands shall contain not more than six hundred (600) square feet of floor area. Each roadside stand shall be approved by the Building Commissioner.
7. Railroad rights-of-way.

**Section 1325                    Permitted Uses by Special Exception**

1. For Special Exception Uses in areas designated OS-Floodway, see Article VI, Floodplain Management.
2. Churches when located on a lot of not less than 5 acres in size.
3. Cemeteries.
4. Excavation of gravel, sand, or other raw materials, subject to the provisions of Article IV.
5. Utility and public service uses.
6. Other uses consistent with the purpose and intent of this Article, including the subdivision of land into lots of not less than five (5) acres and establishment of one (1) single-family dwelling per lot.
7. Accessory uses to the above Special Exception included but not limited to, off-street parking and off-street loading.

**Section 1350                      Area, Height, and Placement Requirements**

1. Front yards: Every building hereafter erected or enlarged shall provide and maintain a front yard of not less fifty (50) feet from the property line.
2. Side yards: Each building hereafter erected or remodeled shall have 2 side yards of not less than thirty (30) feet each.
3. No animals may be housed, stabled, or kenneled closer than one hundred (100) feet to any property line.
4. Maximum lot coverage: 10%. (See Article II for definition of maximum lot coverage)

Part III  
Article XIV

**R-IA, LOW DENSITY RESIDENTIAL DISTRICT**

**Section 1400                      Statement of Purpose**

The Low Density Residential District is established in areas of the City where the principal use of land is for single-family dwellings on large lots. The specific intent of this Article is:

1. To encourage the construction of, and the continued use of the land for, single-family dwellings and single-family neighborhoods.
2. To prohibit business, commercial, or industrial use of the land, and to prohibit any other use which would be incompatible with continued development of single-family dwellings in the district.
3. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
4. To discourage any land use which would generate traffic on minor or local streets, other than normal traffic to serve the residences on those streets.
5. To discourage any use which, because of its character and size would create requirements and costs for public services such as fire and police protection, water supply, and sewerage, substantially in excess of such requirements and costs if the district were developed solely for single-family dwellings.

**Section 1410                      Permitted Uses**

The following uses shall be permitted in an R-IA district:

1. Single-family dwellings.
2. Accessory uses customarily incident to the permitted uses in this Section.

**Section 1425                      Permitted Uses as Special Exceptions**

The following uses may be permitted by the Board of Zoning Appeals if the proposed use will constitute a desirable end stable development which will be in harmony with development in adjacent areas and will not cause congestion on public streets nor be contrary to the spirit and purpose of this Article.

1. Publicly owned hospital, but not including institutions for the care of the mentally ill, provided that the hospital site is adjacent to an arterial or collector as defined in Article X.
2. Parks and recreational areas owned or operated by governmental agencies.
3. Golf courses, country clubs, private swimming clubs, and private swimming pools, provided that no building shall be located within twenty-five (25) feet of any lot line of an abutting lot in any of the other residential districts.
4. Home occupation uses as defined in Section 1430.
5. Railroad rights-of-way, but not including railroad yards or shops.
6. Nurseries and greenhouses for growing plants.
7. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity.
8. Churches and other facilities normally incidental thereto, provided that the proposed site for a

church is not less than five (5) acres, that there is adequate access to all required off-street parking areas, that there is no parking in the required front yard, and that the church site is adjacent to a collector or arterial as defined in Article X.

9. Public libraries, public museums, public schools, public buildings, memorial buildings, water supply facilities and cemeteries, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any of the other residential districts.

#### **Section 1430**

#### **Home Occupation -**

##### **An occupation conducted in a dwelling unit provided that:**

1. Home occupations shall be permitted only by a Conditional Use after a Public Hearing before the Board of Zoning Appeals.
2. No person other than members of the family residing on the premises shall be engaged in such occupation.
3. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than twenty-five (25) per cent of the floor area of the dwelling unit shall be used in the connection of the home occupation.
4. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign - such sign not exceeding two square feet in area, non-illuminated and containing only the name and nature of the business.
5. No home occupation shall be conducted in any accessory building.
6. There shall be no sales area in connection with such home occupation unless specifically permitted by the Board of Zoning Appeals.
7. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by required or permitted parking spaces, and is not permitted in the front yard.
8. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses that can be detected off the premises.
  - a. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

#### **Section 1450**

#### **Area, Height, and Placement Requirements**

1. Minimum lot area: eighteen thousand (18,000) square feet.
2. Minimum width of lot: eighty (80) feet.
3. Minimum floor space per dwelling unit: twelve hundred (1,200) square feet for one story dwellings. Each dwelling with one and one-half (1 1/2) or more stories shall have a minimum first floor area of not less than eight hundred (800) square feet.
4. Minimum yard requirements:
  - A. Front yard: thirty-five (35) feet.
  - B. Side Yard: must have two side yards totaling fourteen (14) feet in width, neither of which can be less than six (6) feet in width. (See additional requirements in Section 425.

- C. Rear Yard: a minimum of twenty-five (25) feet.
5. Maximum lot coverage: 40%
  6. Maximum height of buildings: two and one-half (2 1/2) stories, but no more than thirty-five (35) feet.
  7. Off-street parking: See Article VII.

Part III  
Article XIV-B

**R1-B TRANSITIONAL RESIDENTIAL ZONING DISTRICT**

**Section 9B                      Purpose**

This zoning district is established in areas of the City where land is being or has the potential to be annexed. It is considered a transitional zoning for land that could be developed in the City with city utilities. The specific intent of this zoning is to:

- Encourage Planned Unit Developments that border the City limits and can incorporate some rural and some urban development
- Encourage orderly growth of the City by allowing development that can be sensitive to current agricultural uses nearby
- Discourage urban sprawl by allowing greater densities closest to the City and the logical extension of city infrastructure
- Discourage rural sprawl by allowing greater densities close to the City

**Section 9B-10                  Permitted Uses**

The following uses shall be permitted in the R-1B zoning:

1. Single-family dwellings
2. Planned unit developments
3. Accessory uses customarily incidental to the permitted uses in this Section
4. Community buildings, either public or privately owned
5. Day Care Centers for either children or the elderly
6. Group homes
7. Public buildings and neighborhood parks
8. Churches

**Section 9B-25                  Permitted Uses as Special Exceptions**

The Board of Zoning Appeals shall permit the following uses if the proposed uses will constitute a desirable and stable development, which will be in harmony with development nearby.

1. Hospitals and outpatient care centers
2. Medical offices
3. Golf courses, country clubs, private swimming facilities provided that no building is located within twenty-five (25) feet of any lot line
4. Home Occupation uses as defined in Section 1430
5. Nurseries and greenhouses for growing plants
6. Public utility buildings

**Section 9B-50                  Developmental Standards**

1. Minimum lot area: eleven thousand (11,000) square feet
2. Minimum width of lot: sixty (60) feet
3. Minimum floor space per dwelling unit: nine hundred and sixty (960) feet
4. Minimum yard requirements:
  - A. Front yard: twenty-five (25) feet

- B. Side yard: must have two side yards totaling fourteen (14) feet in width, neither of which can be less than six (6) feet in width (see additional requirements in Section 425)
- C. Rear yard: twenty-five (25) feet
- 5. Maximum lot coverage: 40%
- 6. Maximum height of buildings: two and one-half (2 ½) stories, but no more than thirty-five (35) feet.
- 7. Off-street parking: see Article VII

Part III  
Article XV

**R-1, SINGLE FAMILY RESIDENTIAL DISTRICT**

**Section 1500                    Statement of Purpose**

The Single Family Residential District is established for areas in the City where the principal use of the land is for single family dwellings, but the size of lots is less than required in R-1A districts. The specific intent of this Article is:

1. To encourage the construction of, and the continued use of the land for, single family dwellings and neighborhoods.
2. To prohibit business, commercial, or industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of single family dwellings in the district.
3. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
4. To discourage any use which, because of its character and size would create requirements and costs for public Services such as fire and police protection, water supply, sewerage, substantially in excess of such requirements and costs if the district were developed solely for single family dwellings.

**Section 1510                    Permitted Uses**

1. Single family detached dwellings.
2. Churches and other facilities normally incidental hereto provided that the proposed site for a church is not less than five (5) acres, that there is adequate access to all required off-street parking areas, that there is no parking in the required front yard, and that the church site is adjacent to a collector or arterial as defined in Article X.
3. Accessory uses customarily incident to the permitted uses in this section.

**Section 1525                    Permitted Uses as Special Exceptions**

Same as Special Exception Uses #1 and #2 in Section 1425 and including the following:

1. Publicly owned or operated parks and recreational facilities.
2. Public, parochial and private elementary and intermediate schools, and/or high schools offering courses in general education, not operated for profit.
3. Single unit dwellings occupied by cooperative households such as group homes provided they meet all other applicable requirements as established by State Statutes.
4. Art galleries and museums.
5. Convents, monasteries and seminaries.
6. Golf courses, but not including commercially operated driving ranges, miniature golf courses or lighted par 3 golf courses for night play.
7. Municipal buildings and uses.
8. Home occupation uses, as defined in Section 1430.
9. Private swimming pools subject to requirements of Section 465.
10. Temporary buildings, structures and uses for construction for a period not to exceed one year.
11. Nursery schools and day care centers, when there is provided and maintained a minimum of 50 square feet for each child outdoors at any one time. Such play area shall be screened from any adjoining lot in any residential district.
12. All publicly owned buildings and services.
13. Private heliopads restricted to use for emergency or disaster transportation.

**Section 1550                      Area, Height, and Placement Requirements**

1. Minimum lot area: eight thousand (8,000) square feet
2. Minimum width of lot: sixty (60) feet.
3. Minimum floor space per dwelling unit: six hundred fifty (650) square feet
4. Minimum yard requirements:
  - a. front yard: twenty-five (25) feet
  - b. side yard: must have two side yards totaling fourteen (14) feet, neither of which can be less than six (6) feet in width.(see additional requirements for yards in Section 425)
  - c. rear yard: twenty-five (25) feet
5. Maximum lot coverage: 40%
6. Maximum height of buildings: two and one-half (2½) stories, but no more than thirty-five (35) feet.
7. Off-Street Parking: See Article VII

Part III  
Article XVI

**R-2, TWO-FAMILY RESIDENTIAL DISTRICT**

**Section 1600                    Statement of Purpose**

The Two-Family Residential District is established as a district in which the principal use of land is for single and two family dwellings. The specific intent of this Article is:

1. To encourage the construction of, and continued use of the land for, residential purposes.
2. To restrict commercial and industrial use of the land and to prohibit any use which would substantially interfere with the development or continuation of residential uses in the district.
3. To ensure that only such residential uses as can be properly designed and built will be allowed in this district to avoid overcrowding the land, causing parking or traffic congestion or other injurious effects on adjacent single-family residential property.

**Section 1610                    Permitted Uses**

1. All uses permitted without special exception in the R-1A and R-1 residential districts.
2. Two-family attached dwellings.
3. Accessory buildings or uses customarily incidental to any of the permitted uses, including private garages serving the principal residential building, containing space for not more than two (2) passenger vehicles for each dwelling unit in the principal building on the lot.
4. Single- or two-unit dwellings occupied by cooperative households.
5. Group homes for developmentally disabled persons.

**Section 1625                    Permitted Uses as Special Exceptions**

Same as Section 1425.

**Section 1650                    Area, Height, and Placement Requirements**

1. Minimum lot area: Six thousand (6,000) square feet for single-unit  
Three thousand five hundred (3,500) square feet per unit for two-unit dwellings.
2. Minimum width of lot: Fifty (50) feet for single-unit dwellings  
Sixty-five (65) feet for two-unit dwellings.
3. Minimum floor space per dwelling unit: Six hundred fifty (650) feet per dwelling unit
4. Yard requirements:
  - a. front yard: Twenty-five (25) feet.
  - b. side yard: Must have two side yards totaling twelve (12) feet, neither of which can be less than six (6) feet in width.
  - c. rear yard: Twenty-five (25) feet.
6. Maximum lot coverage: 40%
7. Maximum height of buildings: Two and one half (2½) stories, but not more than thirty-five (35) feet
8. Off-street parking: See Article VII

Part III  
Article XVII

**R-3, MULTIPLE FAMILY RESIDENTIAL DISTRICT**

**Section 1700                      Statement of Purpose**

The R-3 Multiple Family Residential District is designed to permit a more intensive residential use of land than permitted in R-1A, R-I, and R-2 districts. This district will permit various types and sizes of residential accommodations for ownership or rental, to meet the needs of the different age and family groups in the community.

The new R-3 district is designed for lower density multi-family development than provided in the current R-3 designation or in the new R-4 district, and will be applied to vacant parcels within the City that are suitable potential sites for low intensity multi-family development according to the Comprehensive Plan, to areas currently zoned R-3 that require a lower density of development due to the nature of surrounding or adjacent residential or open space uses, yet are appropriate for multi-family development, and to Planned Unit Developments unless zoned otherwise by the Plan Commission.

**Section 1710                      Permitted Uses**

1. Uses permitted without special exception in the R-2 District.
2. The following multiple dwellings:
  - a. apartment houses
  - b. row & townhouse dwellings
  - c. dormitories
  - d. bed and breakfast inn
3. Maintenance & management buildings designed and operated to exclusively serve the multiple dwellings.
4. Dwelling units occupied by cooperative households of unrelated individuals with the provision that there shall be one thousand square feet of lot area per person; and a minimum of two hundred square feet of usable floor area per person. Fraternities and sororities are prohibited in this district.
5. Group homes for developmentally disabled persons.

**Section 1725                      Permitted Uses as Special Exceptions**

The following uses may be permitted by the Board of Zoning Appeals, if the proposed use will constitute a desirable and stable development which will be in harmony with the developments in adjacent areas and will not cause congestion on public streets nor be contrary to the spirit and purpose of this Article or Ordinance.

1. Growing of farm crops in the open, including truck gardens and nurseries, provided that no livestock or poultry are kept and no offensive odors or dusts are created, and further provided that no retail sales are conducted from a store or stand erected or maintained on the premises.
2. Publicly or privately owned and operated hospitals.
3. Institutions for the care of the aged and for children, including municipally operated health centers.
4. Nursing homes and sanitariums, but not for the care of the mentally ill.
5. Public utility buildings, telephone exchange buildings, electric transformer stations and

substations and gas regulator stations, but not including service or storage yards, when operating requirements necessitate their location within the district in order to serve the immediate vicinity.

6. Professional offices such as doctor, lawyer, engineer, architect, dentist, or chiropractor when located on a street designated as an arterial in Article X, but not including the office of a veterinarian.
7. Other uses not specifically noted here when it can be shown that such a use provides a specific need or function, would not alter the character of the adjacent residential areas, and has the approval of at least sixty (60) percent of the residents within three hundred (300) feet of the proposed use.
8. Rooming House
9. Boarding House

### **Section 1750                      Area, Height, and Placement Requirements**

1. Minimum lot area:
  - a. Single-unit dwelling: 6,000 square feet
  - b. Two-unit dwelling: 3,000 square feet per dwelling unit
  - c. Multiple dwelling: 2,500 square feet per dwelling unit
  - d. No multiple dwelling structure shall be erected on a lot or parcel which has an area of less than nine thousand ( 9,000 ) square feet.
  - e. There shall not be more than one (1) building on any lot, tract, or parcel of land and not more than six (6) dwelling units per building, except as otherwise provided in the Site Development Ordinance
2. Minimum floor space per dwelling unit: Where ever multiple dwellings or any apartment dwellings are located in the R-3 district, the minimum required floor space per unit shall be as follows, unless otherwise provided for in this Article
  - a. Efficiency unit: 400 square feet
  - b. One bedroom unit: 600 square feet
  - c. Two bedroom unit: 750 square feet
  - d. Three bedroom unit: 900 square feet
  - e. Plus one hundred (100) additional square feet for each bedroom in excess of three (3) bedrooms in a multiple family dwelling unit.
3. Lot width: Not less than fifty (50) feet for single-unit dwellings,  
Not less than sixty-five (65) feet for two-unit dwellings, and  
Not less than one hundred (100) feet for multiple dwellings.
4. Minimum Yard requirements:
  - a. Single- and two-unit dwellings: same as R-2
  - b. Multiple dwellings:
    - 1.) Front Yard: Twenty-five (25) feet.
    - 2.) Side Yard: Two side yards having a combined width of sixteen (16) feet, with one side yard not less than ten (10) feet in width for properties of one acre or less in size. 30 feet for properties of one (1) acre or more in size.
    - 3.) Rear Yard: Not less than thirty (30) feet in depth
5. Maximum lot coverage: 60%, unless otherwise provided in this Article
6. Maximum height of buildings:
  - a. Single- and two-unit dwellings: same as specified in R-2.

- b. Multiple dwellings: three (3) stories, but not more than forty (40) feet.
- 7. Off-street parking: See Article VII.

Part III  
Article XVIII

**R-4, GENERAL RESIDENCE DISTRICT**

**Section 1800                      Statement of Purpose**

The R-4 General Residence District is designed to provide a greater mixture of housing types ranging from the single family dwelling units to apartment developments and other multiple family structures with a higher density use of land.

**Section 1810                      Permitted Uses**

All uses permitted without special exception in the R-3 district.

**Section 1825                      Permitted Uses as Special Exceptions**

The following uses may be permitted by the Board of Zoning Appeals if the proposed use will constitute a desirable and stable development which will be in harmony with the development in adjacent areas and will not cause congestion on public streets nor be contrary to the spirit and purpose of this Ordinance.

1. All special uses allowed in the R-3 district under the same restrictions as specified under Section 1725.
2. Multiple family dwellings having more than sixteen (16)) units per dwelling.

**Section 1850                      Area, Height, and Placement Requirements**

1. Minimum lot area:
  - A. Single-family dwellings                      5,000 square feet
  - B. Two-family dwellings                      3,000 square feet per dwelling unit.
  - C. Multiple dwellings                      2,000 square feet per dwelling unit.
  - D. No multiple dwelling structure shall be erected on a lot or parcel of land which has an area of less than ten thousand (10,000) square feet.
  - E. There shall not be more than sixteen (16) units in any one building and not more than one building on any one lot, tract, or parcel of land except as otherwise provided in the Site Development Ordinance.
2. Minimum floor space per dwelling unit: Wherever multiple or apartment dwellings are located in the R-4 district, the minimum required floor space per unit shall be the same as required in the R-3 district.
3. Lot width: Not less than fifty (50) feet for single-unit dwellings, not less than sixty-five (65) feet for two-unit dwellings, and not less than eighty (80) feet for all other dwellings in this district.
4. Minimum yard requirements:
  - A. Single- and two-unit dwellings: same as R-2.
  - B. Multiple dwellings:
    - 1.) Front Yard: not less than thirty (30) feet in depth.
    - 2.) Side Yard: not less than thirty (30) feet in depth.
    - 3.) Rear Yard: not less than thirty (30) feet in depth.
5. Maximum lot coverage: 60%

6. Maximum height of buildings: Three and one half (3 1/2) stories, but not more than forty (40) feet.
7. Off-street parking: See Article VII.

**Section 1860                      Protective Screening**

Where a R-4 property abuts a R-1A and/or R-1 zoned property, landscaping shall be provided along a minimum of 100% of the abutting property line. Such landscaping shall be made up of fifty (50) percent evergreen and deciduous shrubs a minimum of three (3) feet tall. Whenever possible, berms should be used in conjunction with the landscaping, unless otherwise deemed appropriate by the Site Review Committee.

Part III  
Article XA

**R-14, UNIVERSITY - MULTI FAMILY ZONING DISTRICT**

The University-Multi Family Zoning District consists of that land designated on the land use map as R-14 and described in the Valparaiso Comprehensive Plan as the R-14 Land Use Classification. This parcel includes the existing east and west portions of the Valparaiso University campus within the City and the area connecting the two campuses as described in the Comprehensive Plan. The area incorporates some privately owned and University owned land with a mixture of housing uses and several Commercial zoned parcels.

**Section 10A. 01      Statement of Purpose**

This zone is intended to allow Valparaiso University to use that land which constitutes its campus so that such premises and buildings thereon may be used for any purpose necessary for the operation and maintenance of the University. In addition, the residential area within the R-14 land use area is intended to promote and encourage the establishment and maintenance of a suitable environment for housing types associated with a university.

**Section 10A.02      Permitted Uses within the R-14 Area**

1. Residential - single-family, two-family, townhouses, apartments, fraternities, sororities, dormitories and home occupations.
2. Fraternities/Sororities - Privately owned Fraternities/Sororities shall also be allowed to occupy land bordering the University campus R-14 district that is zoned Commercial.
3. Valparaiso University-Buildings, structures and parcels of land used in direct connection with the operation and maintenance of the University.

**Section 10A.03      Permitted Uses as Special Exceptions within the R-14 Area**

1. Any use not specifically permitted, but where such use can be shown to be comparable with and not have an adverse affect on existing uses. Such uses could include all uses permitted in the C-1 Neighborhood Commercial District. However, because of the unique nature of this area, any Special Exception must prove to the satisfaction of the Valparaiso Board of Zoning Appeals that:
  - A. Such use meets all the requirements of the district in which it is a permitted use.
  - B. Such use would not have a detrimental effect on adjacent properties.
  - C. That such use will satisfy a need of the students and residents attending school or living in this area.
2. Multiple-family dwelling units that exceed sixteen units.

**Section 10A. 04      Area Height and Placement Requirements**

1. Minimum lot area and number of units:
  - a.) Single Family Dwellings      5000 sq. ft.
  - b.) Two Family Dwelling      3000 sq. ft. per dwelling unit
  - c.) Multiple Family Dwellings      10,000 sq. ft. - 2,000 sq. ft. per dwelling unit
  - d.) Fraternities-Sororities      12,000 sq. ft. - 500 sq. ft. per resident
  - e.) There shall not be more than sixteen (16) units in any one multiple family dwelling, (University owned or operated dormitories, fraternities/sororities are exempt) and not more than

one building on any one lot, tract, or parcel of land except as otherwise provided.

2. Minimum floor space per dwelling unit:

- a. Single Family Dwelling           650 sq. ft.
- b. Two Family Dwelling           650 sq. ft. per dwelling unit
- c. Fraternities/Sororities       100 sq. ft. per resident
- d. For all multiple-family dwelling units, the minimum required floor space per unit shall be as follows:
  - 1.) Efficiency Unit           400 square feet
  - 2.) One-Bedroom Unit       600 square feet
  - 3.) Two-Bedroom Unit       750 square feet
  - 4.) Three-Bedroom Unit     900 square feet
  - 5.) Plus one hundred (100) additional square feet for each bedroom in excess of three (3) bedrooms in a multiple-family dwelling unit.

3. Maximum number of individuals that may lawfully occupy a building:

- A. Single-family dwelling units have no requirements if occupied by a family. If occupied by unrelated individuals: one thousand (1000) square feet of lot area per person.
- B. Two-family dwelling unit: same as for a single-family dwelling unit.
- C. Multiple-family dwelling unit: each multiple dwelling shall have a minimum dwelling unit floor area of 200 sq. ft. per person. The maximum number of unrelated persons to occupy the dwelling shall never be more than the result obtained by dividing the useable floor area in square feet by 200 square feet.
- D. Fraternities/Sororities dwelling units: shall have a minimum useable floor area of 100 square feet per person.

4. Minimum yard requirements:

A. Single-family and two-family dwellings:

- 1.) Front Yard:           twenty-five (25) feet
- 2.) Side Yard:           must have two side yards with each side yard being a minimum of six (6) feet
- 3.) Rear Yard:           twenty-five (25) percent of the depth of the lot, but in no case less than twenty-five (25) feet

B. Multiple-Family And Fraternities / Sororities

- 1.) Front Yard:           twenty-five (25) feet
- 2.) Side Yard:           must have two side yards with each side yard being a minimum of eight (8) feet
- 3.) Rear Yard:           twenty-five (25) percent of the depth of the lot, but in no case less than thirty (30) feet

5. Maximum height of buildings:

- A. Single-family and two-family dwellings: same as specified in the R-2 District.
- B. Multiple-family dwellings and Fraternities/Sororities: four (4) floors, but not more than forty (40) feet.

6. Off-Street Parking: See parking requirements in this ordinance - Part II, Article VII

7. Maximum Lot Coverage:
  - A. Single-family dwellings:           thirty-five (35) percent for interior lots and forty (40) percent for corner lots
  - B. Two-family dwellings: same as single-family dwellings
  - C. Multiple family dwellings:       sixty (60) percent of the total area of the lot or parcel
  - D. Fraternities/Sororities:           sixty (60) percent of the total area of the lot or parcel
8. Dormitories, Classrooms or Other Related Uses Built or Operated by Valparaiso University within the R-14 Area:

There shall be no specific minimum or maximum area, height and placement requirements for University buildings, because of the uniqueness of such buildings or structures.

Whenever a new building or structure within the R-14 Zoning District is proposed which borders public street or private property there shall be a minimum setback of 25 feet from the street or the closest point to any private lot line. Further, whenever any building or structure exceeds 40 feet or four stories in height, there shall be an additional one-foot of setback for every one foot in excess of the 40-foot height.

#### **Section 10A.05**

1. For the purpose of this Ordinance - "Fraternities/Sororities" means an incorporated organization of persons, which provides sleeping accommodations with or without accessory common rooms and cooking and eating facilities, for groups of unmarried students in attendance at an educational institution.
2. Usable Floor Area - The area contained within a structure and measured from the exterior walls or from the center line of party walls and which is used for dwelling purposes. Space(s) within the structure used for storage, utilities, halls or bathrooms need not be considered as useable floor space. Areas, which do not meet the requirements for habitable rooms, need not be counted as usable floor space.

Part III  
Article XIX

**C-1, NEIGHBORHOOD COMMERCIAL DISTRICT**

**Section 1900                      Statement of Purpose**

The Neighborhood Commercial District as established in this Article is intended to be that district permitting retail business and service uses which are needed to serve nearby residential areas and act as a transition or buffer to more intensive commercial activities. To preserve nearby residential neighborhoods, only those uses that would not create hazard, offensive and loud noises, smoke, glare and excessive traffic will be permitted.

**Section 1910                      Permitted Uses**

1. All uses permitted in R-1A, R-1, R-2, R-3 and R-4 districts are permitted provided that residential uses shall conform with the lot area requirements of the R-4 District and provided further, that no residential use shall occupy the first or ground floor of any structure located in the C-1 Neighborhood Commercial District.
2. Bake shops, Delicatessens, Grocery stores, Drug stores, Ice Cream or Candy shops.
3. Barber shops, Beauty parlors.
4. Custom dressmaking, millinery, and tailoring, clothes pressing and repair.
5. Laundry agency or dry cleaning agency, hand laundry, and laundry operated by customer, such as Laundromats.
6. Offices: Business, Professional, or Governmental.
7. Repairs of electrical or other household appliances, locks, radios, televisions, shoes and timepieces.
8. Shops or stores for the sale of art supplies, dry goods, flowers, gifts, music, and periodicals.
9. Accessory structures and uses customarily incidental to the above permitted uses.

**Section 1925                      Permitted Uses as Special Exceptions**

The following uses may be permitted by the Board of Zoning Appeals if the proposed use will constitute a desirable and stable development which will be in harmony with development in adjacent areas, and will not cause congestion on public streets nor be contrary to the spirit and purpose of this Ordinance.

1. Other uses similar to the above and subject to the following:
  - a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail exclusively on premises where produced.
  - b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

**Section 1950                      Area, Height, and Placement Requirements**

1. Minimum lot area: Not required, except that residential uses must meet the requirements of the R-4 district.
2. Minimum lot width: Fifty (50) feet.
3. Minimum yard requirements:

- a. front yard: Twenty (20) feet.
- b. side yard: Must have two (2) side yards totaling twelve (12) feet in width, neither of which may be less than six (6) feet. On the exterior side yard, which borders on a residential district, there shall be provided a setback of at least twenty (20) feet.
- c. rear yard: Twenty (20) feet
4. Maximum lot coverage: 75%
5. Maximum height of buildings: Three and one-half stories (3 1/2), but not more than forty (40) feet.
6. Off-street parking: See Article VII.

#### **Section 1960                      Development Standards for Drive-Through Facility**

Restaurants and other commercial uses not expressly mentioned hereafter having a drive-through service with at least capacity for two (2) stacking spaces per window; or four (4) stacking spaces per window if a menu board is in place, can, with the approval of the Site Review Committee, reduce the basic parking requirement by 12%. All other zoning standards will be required.

Financial institutions having a drive-through service (including ATM service) having at least two (2) stacking spaces per window, or four (4) stacking spaces per window if a menu board is in place, can, with the approval of the Site Review Committee, reduce the basic parking requirement by 50%. This reduction would be based on the placement of the windows and resulting traffic hazards, and egress and ingress of facility.

Any drive-through lane should be clearly marked, and stacking may not interfere with ingress and egress or with on-site and/or off-site vehicular circulation patterns. These development standards apply to drive-throughs in all other commercial and manufacturing zoning classifications.

#### **Section 1980                      Protective Screening**

Those sides of a lot or parcel in a C-1 District which abut or are across an alley from a lot or parcel in a residential district shall be provided with a greenbelt or buffer strip in accordance with Section 475.

Part III  
Article XX

**C-2, COMMUNITY COMMERCIAL DISTRICT**

**Section 2000                      Statement of Purpose**

The Community Commercial District as established in this Article is intended to be that district permitting retail business and service uses, which serve a larger area than those, permitted in the Neighborhood Commercial District. Uses in the C-2 District are more intensive and less suitable for location adjacent to most residential neighborhoods.

**Section 2010                      Permitted Uses**

1. All uses permitted in R-1A, R-1, R-2, R-3, R-4, and C-1 Districts are permitted provided that residential uses shall conform with the lot area requirements of the R-4 District and provided further, that no residential use shall occupy the first or ground floor of any structure located in the C-2 Community Commercial District.
2. Bicycle rental and repair shops.
3. Catering establishments.
4. Clothing or Costume rental establishments.
5. Eating and drinking places in which there is not a dancing or floor show or other live entertainment involving more than one person.
6. Mortuaries
7. Musical instrument repair shops.
8. Photographic developing or printing establishments and studios.
9. Shops or stores for the sale of beverages, including package liquor outlets, hardware, household appliances, jewelry, leather goods, paint, radios, or televisions.
10. Accessory structures and uses customarily incidental to the above permitted uses.

**Section 2025                      Permitted Uses As Special Exceptions**

The following uses may be permitted by the Board of Zoning Appeals if the proposed use will constitute a desirable and stable development which will be in harmony with development in adjacent areas, and will not cause congestion on public streets nor be contrary to the spirit and purpose of this Ordinance.

1. Gasoline Dispensing and Service Stations, providing that such use is located at least five hundred (500) feet from an entrance or exit to property on which is located a public school, playground, playfield, or park; that the minimum frontage on any street shall be one hundred and thirty-two (132) feet, and that no storage outside the building shall be permitted. The lot area minimum shall be fifteen thousand (15,000) square feet. The facility shall meet all regulations of the Indiana Uniform Fire Code.
2. Other uses similar to the above and subject to the following:
  - a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail exclusively on premises where produced.
  - b. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

**Section 2050                      Area, Height, and Placement Requirements**

1. Minimum lot area: Not required, except that residential uses must meet the requirements of the R-4 district.
2. Minimum lot width: Fifty (50) feet.
3. Minimum yard requirements:
  - A. Front Yard: Fifteen (15) feet.
  - B. Side Yard: Must have two (2) side yards totaling twelve (12) feet in width, neither or which may be less than six (6) feet. On the exterior side yard or rear yard which borders on a residential district, there shall be provided a setback of at least twenty (20) feet.
  - C. Rear Yard: Fifteen (15) feet, except as specified above.
4. Maximum lot coverage: 80%
5. Maximum height of buildings: Four (4) stories, but not more than fifty (50) feet, except that a building's height may be increased by two (2) feet for every foot by which all yards are increased above the minimum requirements contained herein.
6. Off-street parking: See Article VII.

**Section 2080                      Protective Screening**

Those sides of a lot or parcel in a C-2 district which abut or are across an alley from a lot or parcel in any-residential district shall be provided with greenbelts or buffer strips in accordance with Section 475.

Part III  
Article XXI

**C-2-T, DOWNTOWN VICINITY DISTRICT**

**Section 2100 Statement of Purpose**

The C-2-T Downtown Vicinity District is designed to act as a buffer area for the Central Business District with the south side of Chicago Street being the buffer. This district is characterized by residential structures suitable for small business uses, which would generate a low volume of traffic. The establishment of this zoning district classification is further intended to satisfy the following needs, conditions and intentions;

1. To provide a means for commercial uses which would act as a buffer to the residential area north of Chicago Street, and which would retain a residential character. This area could be expanded west on the south side of Chicago to Napoleon Street, but only after conditions require expansion and public hearings are held.
2. To insure and facilitate the preservation of areas or structures of historical, architectural, and aesthetic importance.
3. To provide for legitimate uses in certain locations which are compatible to business uses on one side and residential uses on the other side through maintenance of the residential architectural character of the building.

**Section 2110 Establishment of the District**

The district shall be established by the Plan Commission on a case-by-case basis. A proposed amendment to the District shall be reviewed and denied or approved based on the following:

1. In what respects the proposed amendment is or is not consistent with the purposes stated above.
2. The extent to which the proposed plan meets the requirements and standards of the C-2-T zoning district regulations.
3. The relationship amendment to neighborhood and compatibility the adjacent of the proposed properties and Evidence that the proposed amendment does not contribute to dangerous traffic patterns or congestion and provides for adequate off-street parking.
4. The extent to which the proposed amendment will result in private investment that would be beneficial to the redevelopment of a deteriorated area or beneficial to the City in general.
5. The conformity with the recommendations of the Comprehensive Plan.

**Section 2120 Permitted Uses**

All uses in this district are permitted by way of a Special Use Permit to be issued by the Board of Zoning Appeals.

**Section 2130 Granting of Special Use Permit**

The Board of Zoning Appeals shall issue a Special Use Permit for the proposed use when it determines:

1. The proposed use is either a permitted use in R-I, R-2, R-3, or C-1 or C-2 district, or is a "public parking lot." A "public parking lot" is a parcel of which the principal use is for the parking of

- vehicles, either free or at a price, and which is not accessory to an adjacent use.
2. The proposed use will be conducted entirely within the building with no curb service, drive-in trade, outdoor facilities, or outdoor service.
  3. The proposed use will not prevent the orderly and reasonable use of adjacent properties.
  4. The proposed use will not create an undue increase of vehicular traffic on public streets or highways.
  5. That sufficient off-street parking has been planned for the parking of vehicles incidental to the proposed use.
  6. The owner has made sufficient provisions to preserve the exterior architectural appearance and character of the exterior of the structure.

The Board of Zoning Appeals may refuse to issue Special Use Permits for the erection, alteration, reconstruction, demolition, or partial demolition of any building in the C-2-T zoning district, which, in the opinion of the Board, would be detrimental to the purposes of the C-2-T district and against the public interest of the City or surrounding property owners.

#### **Section 2140                      Alteration of Structure or Premises**

A Special Use Permit granted pursuant to the provision of this article are personal to the applicant and does not run with the land; therefore, any subsequent exterior structural change, either to the structure or the premises, or the change of use shall be subject to the issuance of a new Special Use Permit of the Board of Zoning Appeals.

#### **Section 2150                      Area, Height, and Placement Requirements**

No buildings shall be erected or enlarged unless done in conformity with the following requirements.

1. Minimum lot area: Not less than 5,000 square feet for single-unit detached dwellings or for structures containing only one (1) business or one (1) business and one (1) dwelling unit. An additional 2,000 square feet shall be required for each business use in addition to one business within a structure.
2. Minimum lot width: Fifty (50) feet.
3. Minimum yard requirements:
  - A. Front yard: Fifteen (15) feet.
  - B. Side yard: Must have two (2) side yards totaling twelve (12) feet, neither of which can be less than six (6) feet in width. A side yard, which borders on a residential district shall be at least twenty (20) feet.
  - C. Rear yard: Twenty-five (25) feet.
4. Maximum lot coverage: 70%
5. Maximum height of buildings: Two and one half (2 ½) stories, but not more feet than thirty-five (35) feet.
6. Off-street parking: See Article VII.

Part III  
Article XXII

**C-3, GENERAL COMMERCIAL DISTRICT**

**Section 2200                      Statement of Purpose**

The General Commercial District, as established in this Article, is intended to be that district permitting a wider range of business and entertainment activities than those permitted in the Neighborhood or Community Commercial Districts. The permitted uses would serve not only nearby residential areas and the larger Valparaiso community, but also people residing outside the City with major types of comparison businesses, offices services, and automotive service activities, including open air sales and uses requiring location on a major highway or street. These uses would generate larger volumes of vehicular traffic, would need more off-street parking and loading, and would require more planning to integrate such districts with adjacent residential areas. Such C-3 districts in the community reflect major existing shopping concentrations, other commercial uses along major thoroughfares, and desired future commercial centers as proposed in the Comprehensive Plan which are needed to serve adequately the future population of the community.

**Section 2210                      Permitted Uses**

1. All uses permitted in R-1A, R-1, R-2, R-3, R-4, C-1, and C-2 districts, provided that residential uses shall conform with the lot area requirements of the R-4 district and provided further that no residential use shall occupy the first or ground floor of any structure located in the C-3 general commercial district, except that structures existing at the time of the enactment of this section which were built as single-family residences and continue to be maintained as such will in all respects be lawful uses and can be expanded, restored, or rebuilt without variance or special exception subject only to the requirements of all other laws, statutes, or ordinances..
2. Automobile, motorcycle, trailer, or boat showrooms and sales rooms.
3. Automobile wash establishments when completely enclosed in a building.
4. Blueprinting, photocopy, plans, and printing establishments.
5. Bus passenger stations.
6. Business schools and colleges, or private schools operated for a profit.
7. Carpet, rug, linoleum, or other floor covering stores.
8. Commercial amusement, sport, cultural, or recreation activities, including auditoriums or exhibition halls, bowling alleys, golf driving ranges, miniature golf, skating rinks, billiard parlors, museums, indoor theaters, electronic game arcades, excluding rides, ferris wheels, and other such amusement devices.
9. Department stores.
10. Eating or drinking establishments, except those having the principal character of a drive-in facility wherein food is served to a customer in his vehicle.
11. Electrical, glazing, heating, painting, paper hanging, plumbing, roofing or ventilation contractors' establishments, excluding outside storage yards.
12. Exterminators.
13. Furniture stores.
14. Hotels and motels.

15. Interior decorating establishments.
16. Medical or dental laboratories for research or testing, not involving any danger of explosion, nor of offensive noise, vibrating, smoke, odorous matter, heat, humidity, glare, or other objectionable effects.
17. Monument sales establishments, with incidental processing to order, but not including the shaping of headstones.
18. Moving or storage offices, with storage limited to items for retail sale and to 1,500 square feet of floor area per establishment.
19. Office or business machine stores; sales, rental, or repair.
20. Physical health establishments, including gymnasiums, reducing salons, masseurs, or steam baths.
21. Public auction rooms
22. Publicly owned buildings, public offices, public utility buildings, exchanges, transformer stations, pump stations, and service yards but not including outdoor storage yards.
23. Radio and television studios and towers, subject to Section 415.
24. Sign painting shops, limited to 2,500 square feet of floor area per establishment.
25. Studios for music, dancing, or theatrical instruction.
26. Taxidermist shops.
27. Upholstering shops dealing directly with consumers.
28. Venetian blind, window shade, or awning shops, including repairs, limited to 2,500 square feet of floor area per establishment.
29. Any service establishment of an office-showroom or workshop in the nature of an electrician, decorator, dressmaker, tailor, shoemaker, baker, printer, upholsterer, photographic reproduction, and similar establishments that require a retail adjunct and of no more objectionable character than the aforementioned, subject to the provision that no more than five (5) persons shall be employed at any time in the fabrication of goods.
30. Offices of veterinarians, provided that all animals cared for on the premises are kept within a fully-enclosed building.
31. Wedding chapels, banquet halls, dance halls, assembly halls, lodge halls, or similar places of assembly.
32. Other uses similar to the above and subject to the following regulations:
  - A. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
  - B. All business, servicing, or processing, except for off-street parking, loading, and those open air uses indicated as being permissible on special approval in Section 2125 below, shall be conducted completely within enclosed buildings.
33. Accessory structures and uses customarily incidental to the above permitted uses. Signs shall be regulated by Articles IX.
34. Off-street parking and loading space as required in Article VII
35. Single Room Occupancies
36. Auto Repair, Major and Minor
37. Temporary Outdoor Sales. Located on a paved surface, and for retail purposes only.

## **Section 2225                      Permitted Uses as Special Exceptions**

The following uses may be permitted by the Board of Zoning Appeals if the proposed use will constitute a desirable and stable development which will be in harmony with development in adjacent areas and will not cause congestion on public streets not be contrary to the spirit and purpose of this ordinance.

1. Open air business uses, as defined in Article II, subject to the following regulations:
  - A. The minimum area of the site shall be ten thousand (10,000) square feet.
  - B. The minimum street frontage shall be one hundred (100) feet.
  - C. There shall be provided around all sides of the site, except at entrances, exits, and along sides of the premises enclosed by buildings, a fence or wall five (5) feet in height in order to intercept windblown trash and other debris. Where the side abuts any residentially zoned district, the requirements for protective screening shall apply as specified in Section 2280 and Section 475.
  - D. Off-street parking areas shall be provided as required under Article VII.
  - E. Lighting shall be installed in a manner which will not create a driving hazard on abutting streets or which will not cause direct illumination on adjacent properties.
  - F. Before approval is given for any use, a site plan shall be first submitted to the Board for review as to suitability of entrance and exit locations, parking area, fencing, lighting and other design features.
  - G. All other open air business uses shall comply with all City and County health regulations regarding sanitation and general health conditions.
2. Drive-in establishment or open front store, provided that the entrance or exit to or from any such use is at least one hundred (100) feet from the intersection of any two (2) streets, that all such uses shall have direct access to an arterial street as defined in Article X, that all lighting or illuminated display shall not reflect onto any adjacent residential zone, and that consideration is given to proximity of existing places of congregation of children (e.g. schools) and to their relationships to traffic safety and sanitation.
3. Wholesale or jobbing businesses.
4. Parking lots accessory to uses in the C-4 Central Business district, provided such parking lots are within three hundred (300) feet of a C-4 District.
5. Mini-warehouses and storage facilities, as defined in Article II, subject to the following:
  - A. The requirements of Section 1240, 7.B. Special Exceptions.
  - B. Traffic conditions and accessibility of buildings for fire and police protection.
  - C. No materials of combustible, explosive, or flammable nature to be stored or kept on the premises.
  - D. Character and use of buildings adjoining or in the vicinity of property.
6. Gasoline Dispensing and Service Stations.

## **Section 2250                      Area, height and Placement Requirements**

1. Minimum lot area: No requirements
2. Minimum lot width: Fifty (50) feet
3. Minimum yard requirements:
  - A. Front Yard: Five (5) feet.
  - B. Side Yard: Must have two (2) side yards totaling twelve (12) feet in width, neither of which may be less than six (6) feet. On the exterior side yard or rear yard, which borders on a residential district, there shall be provided a setback of at least twenty (20) feet.

- C. Rear Yard: Fifteen (15) feet, except as provided in Part B above.
- 4. Maximum lot coverage: 80%
- 5. Maximum height of buildings: Four (4) stories, but not more than fifty (50) feet.
- 6. Off-street parking: See Article VII

**Section 2280 Protective Screening**

Those sides of a lot or parcel in a C-3 District which abut or are across an alley from a lot or parcel in any residential district shall be provided with greenbelts or buffer strips in accordance with Section 475.

**Part III**  
**Article XXIII**

**C-4 CENTRAL BUSINESS DISTRICT**

**Section 2300                      Statement of Purpose**

The Central Business District regulations as specified in this Article are adopted to preserve, protect, and enhance the downtown as the urban center, focal point, and image of the greater Valparaiso community. This will be accomplished by promoting appropriate retail, and complimentary commercial, residential, cultural, and recreational uses while recognizing and maintaining the downtown's unique character and historical setting. Because of the nature and culture of the existing and desired downtown, its planning and regulation demand special considerations. The scale and intensity of development, the locations and relationships between the land and building uses, and public safety and comfort are the primary focus. The goal is for the downtown area to be the inviting, vibrant, viable, and aesthetic heart of the Valparaiso community. This ordinance is intended to enhance and foster economic development and does not seek to hinder creativity in the development process.

Decision making impacting the downtown shall be sensitive to:

- Growth Management Plan (Camiro)
- Downtown Implementation Plan (HyattPalma/Downtown Implementation Board)
- Valparaiso Downtown District Comprehensive Plan
- Design Guidelines for Valparaiso, IN – February 27, 1996
- Valparaiso Comprehensive Plan

**Section 2310                      Permitted Uses**

The following uses are specifically permitted in the C-4, Central Business District:

1. Antique shops
2. Art and school supply stores
3. Art galleries and museums, which may include items for sale
4. Audio recording sales and rental
5. Bakeries (where a minimum of 20% of the total floor area is dedicated to retail sales)
6. Banks and financial institutions
7. Barbershops
8. Bath, bed and/or kitchen specialty stores
9. Beauty parlors
10. Bicycle sales and repair stores (repair activity must be carried out wholly within building and in the rear of building)
11. Business machines, sales and service
12. Camera and photographic supply stores
13. Candy and ice cream stores
14. China and glassware stores
15. Clock sales and repair shops
16. Clothing and apparel stores
17. Clubs and lodges, private, fraternal, or religious
18. Coin and philatelic stores
19. Computer sales and service
20. Consignment and resale shops
21. Cookware stores

22. Cosmetics sales
23. Custom tailoring (dressmaking)
24. Department stores
25. Discount stores
26. Drug stores
27. Dry-cleaning establishments (without processing on site)
28. Electronics (consumer)
29. Employment agencies
30. Engraving services
31. Fabric and sewing supply stores
32. Flower shops
33. Food stores, including grocery stores, meat markets, and delicatessens
34. Furrier shops, including the incidental storage and conditioning of
35. Gift shops
36. Governmental or quasi-governmental offices
37. Hardware stores
38. Hobby shops, for retail
39. Hotels, including dining and meeting areas
40. Interior decorating shops
41. Jewelers
42. Printing/copy shops
43. Libraries
44. Leather goods and luggage stores
45. Loan offices
46. Locksmiths
47. Mail order service stores
48. Medical and dental offices
49. Music instrument sales and repair
50. Newspaper offices, not to include printing
51. Office supply stores
52. Offices, business and professional
53. Opticians and optometrists
54. Paint and wallpaper stores
55. Photography studios
56. Physical fitness and health centers
57. Picture framing
58. Radio broadcasting studios
59. Residential dwelling unit (must be above 1<sup>st</sup> floor)
60. Restaurants
61. Retail and service uses similar to those listed as long as the establishments deal directly with consumers.
62. Salon, day spas
63. Schools: music, art, dance
64. Sewing machine, sales and services (household machines only)
65. Shoe and hat repair stores
66. Shoe stores
67. Tailor shops
68. Taverns and cocktail lounges
69. Television broadcasting studio
70. Theater, indoor – movies, stage
71. Tobacco Shops

- 72. Toy shops
- 73. Travel agencies
- 74. Utilities offices
- 75. Variety stores
- 76. Video recordings, sales and rentals

## **Section 2325                      Permitted Uses as Special Exception**

The following uses may be permitted by the Board of Zoning Appeals if the proposed use will constitute a desirable and stable development, which will be in harmony with development in adjacent areas and will not cause congestion on public streets and not be contrary to the spirit and purpose of this ordinance:

1. Automatic Teller Machines (ATM)
  - A. Vehicular access to such structures shall only be in the rear of the primary structure on the lot or parcel of the subject ATM.
  - B. "Walk-up" structures may be attached to the exterior rear or sidewall of the building or placed in the interior of the primary structure.
  - C. Vehicular service lanes/queuing areas for such uses shall not cross pedestrian sidewalks. Access drives to service/queuing areas may cross public sidewalks with City Engineer's/Traffic and Safety Committee approval.
2. Drive-thru structures

Vehicular access to such structures shall only be in the rear of the primary structure on the lot or parcel of the subject drive-thru structure and a minimum of 10 feet from the property lines.
3. Off-Street parking (open lot), public lot or accessory to a C-4 use, provided that at least four (4) feet from all street fronting property lines be landscaped and maintained by the property owner. Decorative fencing may be used provided that it complies with Section 470. Open lots shall not be located on the ½ block north or south of Lincolnway between Napoleon and Michigan Streets nor the ½ block surrounding the Courthouse Square.
4. Off-Street parking (parking garage), public garage or accessory to a C-4 use. Such facilities shall not be located on the ½ block north and south of Lincolnway between Napoleon and Michigan Streets, nor on the ½ block surrounding the Courthouse Square.
5. Museums
6. Passenger transportation terminal
7. Certified Massage Therapy Establishment
8. Liquor store (package)
9. Churches

**Section 2330****Prohibited Uses**

The following uses shall be prohibited within the C-4 District.

1. Sexually-oriented businesses
2. Tattoo and/or body piercing establishments
3. Pawn Shop as per IC Code 28-7-5

**Section 2350****Area, Height, and Placement Requirements**

- A. Minimum/Maximum lot area: exempt
- B. Minimum/Maximum lot width: exempt
- C. Yard requirements:
  1. Maximum front yard: three (3) feet except around the Courthouse Square and Lincolnway between Michigan Street and Napoleon Street where structures shall be built to the front property line.
  2. Structures shall be built up to side property lines except where a proposed break in building continuity will be developed as a publicly accessible urban park or through-block pedestrian connection; where such a break in continuity is otherwise permitted and necessary as driveway access into a site; where the size and placement of the proposed building cannot be readily changed to occupy the full site frontage; or where phasing of development on a site will eventually result in a continuous building frontage.
  3. Rear yard: exempt
- D. Maximum building height: Not more than seventy-five (75) feet.

No higher than fifty (50) feet for buildings located in the area  $\frac{1}{2}$  block north or south of Lincolnway and  $\frac{1}{2}$  block in all directions surrounding the Courthouse square. A maximum of seventy-five (75) feet is permitted in this area with a conditional use permit.

- E. Off street parking and loading: The C-4 district is specifically exempt from the off street parking requirements of Article VII of this Ordinance. Off street loading requirements shall be complied with in accordance with the provisions of Sections 780 for all uses.

Part III  
Article XXIV

**M-1, LIGHT INDUSTRIAL DISTRICT**

**Section 2400                      Statement of Purpose**

The M-1 Light Industrial District is designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the District and which will not cause adverse effects on adjacent residential or commercial property.

**Section 2405                      General Requirements**

1. Permitted Uses:

Permitted uses of land or buildings, as hereinafter listed, shall be permitted in the Districts indicated under the requirements specified. No buildings or zoning lot shall be devoted to any use other than a use permitted hereinafter in the Zoning District in which such building or zoning lot shall be located, with the exception of the following:

- A. Uses lawfully established on the effective date of this Ordinance.
- B. Permitted Uses as Special Exceptions are allowed in accordance with the provisions of No. 2 hereunder.

Uses already established on the effective date of this Ordinance, and rendered nonconforming by the provisions thereof, shall be subject to the regulations of this Ordinance.

2. Permitted Uses as Special Exceptions:

Special Exceptions, as hereinafter listed, may be allowed in the Zoning Districts indicated, subject to the issuance of Special Use permits in accordance with the provisions of Article XXIV Section 2420 and Article XIV Section 2520.

3. Performance Standards:

No use otherwise allowed shall be permitted within either the M-1 or M-2 Industrial Districts which does not conform to the following standards of use.

- A. **Smoke:** The emission of smoke or particulate matter in such manner or quantity as to endanger or to be detrimental to the public health, safety, comfort, or welfare, is not permitted. For the purpose of grading in the density of smoke, the Ringlemann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than No. 2 of the Ringlemann Chart is prohibited at all times, except as otherwise provided hereinafter. The emission, from all sources within any lot area, of particulate matter containing more than 10% by weight of particles having a particle diameter larger than forty-four (44) microns is prohibited. Dust and other types of air pollution, borne by the wind from such sources as storage areas, yards, roads, and the like, within lot boundaries, shall be kept to a minimum by appropriate private landscaping, paving, oiling, fencing, or other acceptable means. Emission of particulate matter from such sources in excess of the weight limitation herein specified is prohibited. The emission of more than eight (8) smoke units (as defined by the United States Bureau of Mines) per hour per stack is prohibited, including smoke of a density in excess of Ringlemann No. 2. However, during one one-hour period in each twenty-four (24) hour day, each stack may emit up to sixteen (16)

smoke units when blowing soot or cleaning flues. Only during fire-cleaning periods, however, shall smoke of Ringlemann No. 3 be permitted, and then for not more than three (3) minutes.

- B. **Dust, Dirt and Fly Ash:** No person, firm or corporation shall operate or cause to be operated, maintained or cause to be maintained, any process for any purpose, a furnace or combustion device for burning of coal or other natural or synthetic fuels, without using recognized and approved equipment or methods to reduce the quantity of gasborne or airborne solids of fumes emitted into the open air so that the quantity of gasborne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at the temperature of 500 degrees Fahrenheit.

Method of Measurement: For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed fifty (50) percent at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code for dust separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The Building Inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt, and fly ash have been made.

- C. **Odor:** The emission of odors which are generally agreed to be obnoxious to any considerable number of persons, at their place of residence, or within said premise emitting the odor, shall be prohibited.
- D. **Gases:** SO<sub>2</sub> gas, as measured at the property line shall not exceed an average of .3ppm over a twenty-four (24) hour period; provided however, that a concentration of .5 ppm will be allowed for a one (1) hour period out of a twenty-four (24) hour period; H<sub>2</sub>S shall not exceed 1 ppm; fluorine shall not exceed .1 ppm; nitrous fumes shall not exceed 5 ppm; CO shall not exceed 15 ppm.
- E. **Airborne Matter General:** In addition to a through d above, there shall not be discharged from any source whatsoever, such quantities of air contaminates or other material which cause injury, detriment or nuisance to the public or which endanger the comfort, health or safety of persons, or which cause injury or damage to business or property.
- F. **Glare and Radioactive Materials:** Glare from any process (such as or similar to arc weld, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as X-ray machine operation, shall not be permitted to exceed quantities established as safe by the U.S. Bureau of Standards when measured at the property line.
- G. **Fire and Explosive Hazards:**
- 1.) The storage, utilization or manufacture of materials or products, ranging from incombustible to moderate burning as determined for a closed cup flash point of less than one hundred and eighty-seven degrees Fahrenheit (187°F) is permitted subject to compliance with all other performance standards for this district.
  - 2.) The storage, utilization, or manufacture of materials or products ranging from free or active burning to intense burning as determined for liquids by a closed cup flash point of less than one hundred and eighty-seven degrees Fahrenheit (187°F) but not less than

one hundred and five degrees Fahrenheit (105°) is permitted, subject to compliance with all other performance standards for this district, and provided the following conditions are met:

- a.) Said materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having incombustible walls; and
  - b.) All such buildings or structures shall be set back at least forty (40) feet from lot lines, or in lieu thereof, all such building or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the American Insurance Association; or if the materials, goods, or products are liquids, the protection thereof shall be in conformity with standards prescribed by the American Insurance Association.
- 3.) The utilization in manufacturing processes of materials which produce flammable or explosive vapors or gases determined for liquids by a closed cup flash point of less than one hundred and five degrees Fahrenheit (105°F) shall be permitted in this district provided:
- a.) That the final manufactured product does not itself have a closed cup flash point of less than one hundred and eight-seven degrees Fahrenheit (187°F).
  - b.) That the use and storage of such materials shall be in conformity with standards prescribed by the American Insurance Association and the requirements of any other ordinances.
  - c.) That the storage of more than fifty thousand (50,000) gallons of materials or products having a closed cup flash point of less than one hundred and five degrees Fahrenheit (105°F) (exclusive of storage of finished products in original sealed containers) is prohibited.
  - d.) That the storage of more than one hundred thousand (100,000) gallons of materials or products having a closed cup flash point of less than one hundred and eighty degrees Fahrenheit (180°F) (exclusive of storage of finished product in original sealed containers) is prohibited.

H. **Noise:** Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American National Standards Institute. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereinafter prescribed, provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this Ordinance, 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 two (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. At no point on the boundary of this district shall the sound intensity level of any individual operation or plant (other than the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands.

| <b>Octave Band</b><br>(cycles per second) | <b>Maximum Permitted Sound Level in Decibels</b> |                               |
|-------------------------------------------|--------------------------------------------------|-------------------------------|
|                                           | <b>Along Residential Boundaries</b>              | <b>Along Other Boundaries</b> |
| 0 to 75                                   | 72                                               | 75                            |
| 75 to 150                                 | 67                                               | 70                            |
| 150 to 300                                | 59                                               | 63                            |
| 300 to 600                                | 52                                               | 57                            |
| 600 to 1200                               | 46                                               | 52                            |
| 1200 to 2400                              | 40                                               | 45                            |
| 2400 to 4800                              | 34                                               | 40                            |
| Above 4800                                | 32                                               | 38                            |

- I. **Vibrations:** No industrial operation or activity (except those not under the direct control of the manufacturer) shall cause at any time ground transmitted vibrations in excess of the limits set forth below. Vibration (the periodic displacement measured in inches of earth) shall be measured at any point along this district boundary line with a three-component measuring instrument approved by the Plan Commission and shall be expressed as displacement in inches.

| <b>Frequency (cycles per second)</b> | <b>Maximum Permitted Displacement</b>          |
|--------------------------------------|------------------------------------------------|
|                                      | <b>Along Manufacturing District Boundaries</b> |
| 0 to 10                              | .0008                                          |
| 10 to 20                             | .0005                                          |
| 20 to 30                             | .0002                                          |
| 30 to 40                             | .0002                                          |
| 40 and over                          | .0001                                          |

- J. **Sewage Wastes:** No waste shall be discharged in the public sewer system which is not in compliance with the City of Valparaiso Ordinance 24, 1985, or as amended.

#### **Section 2410 Permitted Uses**

1. Any of the following uses conducted wholly within a completely enclosed building:
  - A. Warehousing and wholesale establishments and storage other than accessory to a permitted retail use.
  - B. Processing, packaging, or treatment of bakery goods, candy, cosmetics, pharmaceuticals, toiletries, hardware, and cutlery.
  - C. Tool, die, gauge, and machine shops.
  - D. Manufacturing or assembling of articles from the following previously prepared materials: canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wax, wire, wood, and yarns.
  - E. Manufacture of musical instruments, toys, watches, clocks, ceramic products, novelties, metal stamps, and small molded rubber products.
  - F. Manufacture or assembly of electrical appliances, electronic instruments, radios, phonographs, photographic equipment, and engineering, scientific, research, or medical equipment.

- G. Experimental, film, or testing laboratories.
- H. Manufacture of light sheet metal products.
- I. Building material sales.
- J. Dwellings for caretakers or watchmen accessory to any of the above uses, farm dwellings on farms of ten (10) acres or more. Other residential uses are specifically prohibited
- 2. Railroad transfer and storage tracks, and passenger end freight terminals.
- 3. Publicly owned buildings, public utility buildings, telephone exchanges, transformer stations, and substations with service yards, but without storage yards, water or sewage pumping stations, when operation requirements necessitate the location of said facilities within the district in order to serve the immediate vicinity.
- 4. Water and gas tanks and holders, and heating and electric power generating plants, and all necessary uses.
- 5. Other uses similar to the above and subject to the requirements set forth in the following sections.
- 6. Any retail or commercial use allowed in the C-3, Central Business District, and any use permitted without special exception in the OS, Open Space District.
- 7. Accessory uses customarily incidental to any of the permitted uses.
- 8. Off-street parking and loading space as required in Article VII.

#### **Section 2420                      Permitted Uses as Special Exceptions**

The following uses may be permitted after approval by the Board of Zoning Appeals, if the proposed use will constitute a desirable and stable development which will be in harmony with development in adjacent areas and will not cause congestion on public streets nor be contrary to the spirit and purpose of this Ordinance.

- 1. Rustproofing shops.
- 2. Metal plating, buffing, and polishing shops, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
- 3. Other uses of a similar and no more objectionable character to the above uses, and subject to the requirements set forth in the following sections.
- 4. Salt, gas, or oil wells, and gravel mining, subject to the following restrictions in addition to the other regulations of this Article:
  - A. Before any excavation or drilling is begun, there should be a plan on file with and approved by both the State Department of Natural Resources and the Commission for both excavation and reclamation activities.
  - B. Any excavation or drilling should be surrounded by a fence not less than seven (7) feet high.
  - C. Any excavation or drilling shall be carried on in such a manner so as not to disturb any land or properties immediately adjacent to the property on which the excavation is being accomplished.
- 5. Sanitary landfill, subject to all additional local, state, and federal standards governing landfill location and operation.
- 6. Gasoline Dispensing and Service Stations.

#### **Section 2430                      Area, Height and Placement Requirements**

- 1. Minimum Lot Area - twelve thousand (12,000) square feet.
- 2. Minimum Lot Width - seventy-five (75) feet.

3. Minimum Yard Requirements:
  - A. Front Yard: Not less than twenty-five (25) feet. In addition, no parking shall be permitted in the front yard except after review of the parking plan layout and points of access by the Plan Commission. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines.
  - B. Side Yard: There shall be provided an interior side yard of not less than fifteen (15) feet in depth along each interior side lot line; and there shall be provided a side yard of not less than twenty-five (25) feet in depth in every instance where the side property line is adjacent to a public street.
  - C. Rear Yard: There shall be provided a rear yard of not less than twenty-five (25) feet in depth along each rear lot line.
4. Transitional Yard: Where a side or rear lot line coincides with a side or rear lot line in an adjacent Residential or Commercial District, a yard shall be provided along such side or rear lot line not less than thirty (30) feet in depth and shall contain landscaping and planting suitable to provide an effective screen.
5. Maximum Lot Coverage: Not more than seventy (70) percent of the lot shall be covered by buildings or parking areas.
6. Maximum Height of Buildings: Four (4) stories, but not more than fifty (50) feet.
7. Off-Street Parking: See Article VII.

Part III  
Article XXV

**M-2, HEAVY INDUSTRIAL DISTRICT**

**Section 2500                      Statement of Purpose**

The intent of the M-2 Heavy Industrial District is to permit those industrial activities which may produce the greatest degree of nuisances and hazards to locate in areas of the City, based upon the Comprehensive Plan, which are of a manufacturing, processing, assembling, storing, testing or similar industrial character. These uses are generally large-scale or specialized industrial operations requiring ready access by road and/or railroad, open storage, large sites and extensive public and utility services. Such uses also normally generate greater nuisances such as smoke, noise, vibration, dust and glare. The performance regulations apply to uses in this district to permit the location of industries which will not cause adverse effects on surrounding properties or on the City as a whole.

**Section 2510                      Permitted Uses**

- A. Uses permitted in the M-2 District are subject to the following conditions:
1. Dwelling units and lodging rooms other than watchman's quarters are not permitted.
  2. All business, servicing or processing within 300 feet of a Residential or Business District shall be conducted within completely enclosed buildings.
  3. All storage within 300 feet of a Residential District, except of motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened by a solid wall or fence or shrubbery (including solid entrance and exit gates) not less than six feet in height.
- B. The following uses are permitted in the M-2 District:
1. Any use permitted in the M-1 District
  2. Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which conform to the performance standards established for this district as set forth in Section 2400.

**Section 2520                      Uses permitted as Special Exceptions**

The following uses may be permitted by the Board of Zoning Appeals after review and approval if the proposed use will constitute a desirable and stable development which will be in harmony with development in adjacent areas and will not be contrary to the spirit and purpose of this Ordinance.

1. Chemical plants
2. Junk yards and automobile wrecking yards, provided they are contained within completely enclosed buildings or screened by a solid wall or uniformly painted solid fence at least twelve (12) feet high.
3. Areas for dumping or disposal of garbage, refuse or trash.
4. Gasoline Dispensing and Service Stations.
5. Other manufacturing, processing or storage uses determined by the Plan Commission to be of the same general character as the uses permitted in the M-2 District, and found not to be obnoxious, unhealthful or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic or noxious matter, or glare or heat.

**Section 2530                      Area, Height and Placement Requirements**

1. Minimum Lot Area: twenty thousand (20,000) square feet.
2. Minimum Lot Width: seventy-five (75) feet.
3. Minimum Yard Requirements:
  - A. Front Yard: Thirty (30) feet. In addition, parking may be permitted in the front yard after review of the parking plan layout and points of access by the Commission. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines.
  - B. Side Yard: Must have two (2) side yards totaling sixty (60) feet, neither of which can be less than twenty'(20) feet in width.
  - C. Rear Yard: same as the M-1 District.
4. Maximum Lot Coverage: Seventy (70) percent of the total lot.
5. Maximum Height of Buildings: Four (4) stories, but not more than fifty (50) feet.
6. Off-Street Parking: See Article VII.

**Section 2540                      Protective Screening**

Those sides of a lot or parcel in an M-2 District which abut on or are across an alley from a lot or parcel in any residential district shall be provided with greenbelts or buffer strips in accordance with Section 475.

**Section 2550                      Performance Standards**

All uses in an M-2 district must meet the standards set forth in Section 2400 concerning noise, smoke and particulate matter, toxic or noxious matter, odors, fire and explosion hazard, vibrations, glare or heat, and storage or dumping of waste materials, and the enforcement of such standards.

## PART III

### ARTICLE XXVI DOWNTOWN DESIGN STANDARDS

#### ➤ Section 2600—User Guide

This chapter establishes design standards for Downtown Valparaiso. If you are interested in developing or making changes to property within Downtown Valparaiso, you should read this chapter along with Article XXIII CBD Central Business District, which contains additional regulations relating to uses and other standards for Downtown Valparaiso.

#### ➤ Section 2605—General

1. Purpose and Intent. These standards are intended to direct the design of *buildings* and *sites* within the CBD Central Business District, in compliance with the City’s Zoning Ordinance and Comprehensive Plan. The standards will promote quality development and reinforce the City’s identity in the downtown area—a vision of an attractive, pedestrian-oriented urban downtown with a small town scale and atmosphere. *Buildings* and *sites* should convey a sense of permanence, attention to detail, quality and investment. The standards are not intended to slow or restrict development, but rather to add consistency and predictability to the permit review process.
2. Compliance With Design Standards:
  - A. For each element below, a design objective or end result of what is intended to be achieved is stated. The design objective must be complied with. Following each objective is a series of design standards. There are two types of design standards. Some design standards are viewed as fundamental in achieving the stated design objective(s). These fundamental standards are mandatory. In these statements, the word “shall” is used. The second types of design standard are examples or alternatives to achieving the design objectives. In these standards, the word “should” is used, or neither “shall” nor “should” are used. In standards where “shall” is not used, there is an obligation to comply with the standard, unless the project demonstrates a better means for achieving the design objective.
  - B. The *applicant* shall demonstrate to the satisfaction of the *Director* that the applicable objectives and design standards are met. The *director* reserves the right to consult or contract professional or expert services in determining compliance with these standards.
3. All properties within the C-4 Central Business District shall comply with the following:
  - A. New construction, addition, or new reconstruction of a principal building is subject to all standards and requirements of this Ordinance.
  - B. Any expansion of an existing principal building’s gross floor area of more than 25% requires the front façade to be renovated in compliance with these standards. Upon the initial expansion of the building a sum will be totaled for that parcel. Once the building has expanded by 50% or greater (whether over a series of expansions or from an initial expansion) the entire building will be subject to meet all standards and requirements of this Ordinance.

- C. Any new extension, expansion, or renovation of a principal building façade is subject to all standards of this Ordinance and the approval of the Plan Commission when the improvements exceed 25% of a façade. Improvements effecting less than 25% of the façade may be approved by the Director.
- D. Any exterior alteration or renovation of a primary building facade is subject to all requirements of this ordinance.
- E. Existing building and site improvements may remain in their current condition as long as no additions are added to the existing building.
- F. Use of available economic incentives will require conformance with the standards of this ordinance.
- G. The installation of new on-site lighting shall comply with this and other zoning ordinance standards.
- H. The standards and requirements of this ordinance may be waived for buildings officially designated as historic if they would result in an unacceptable modification of the original, historic appearance of the building as determined by the Plan Commission.
- I. Routine maintenance is exempt from the standards and requirements of this Ordinance.
- J. Any modification of building facades (window replacement, material change, color change, etc.) will require an ILP (Improvement Location Permit) at a minimum.

➤ **Section 2610—Severability**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any other provision of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

➤ **Section 2615—Pedestrian and Vehicular Circulation**

1. Objectives:

- A. Provide priority treatment for pedestrians in the design of projects.
- B. Improve the pedestrian environment by making it easier, safer, more convenient and more comfortable to walk between businesses, on sidewalks, to future transit stops, across *streets* and through parking lots. Pedestrian facilities such as sidewalks, crosswalks, and future bus shelters should connect all modes of transportation.
- C. Provide wide sidewalks along both sides of *streets* for a variety of activities that accommodate and complement city life.
- D. Provide safe routes for disabled persons.
- E. Accommodate bicycles and other non-motorized transportation modes.

- F. Create a safe, convenient network for vehicle circulation and parking.
- G. Provide vehicular access routes through large *lots* to complete the downtown *street* and alley grid, as directed by the Downtown Valparaiso Streetscape Design Plans.

## 2. Design Standards

- A. Pedestrian and vehicular circulation shall comply with the Downtown Valparaiso Streetscape Design Plan (“Streetscape Plan”) and the City’s adopted *street* standards and standards for improvements.
- B. Sidewalk design and installation shall comply with the adopted Streetscape Plan.
- C. Provide obvious pedestrian access onto the site from adjacent *streets*.
- D. In multiple-*building* developments, provide pedestrian paths or walkways connecting all businesses and the entries of multiple *buildings* to one another and those of adjacent developments and rights of way.
- E. In parking areas, pedestrian walkways connecting the parking area with primary *building* entrances, *pedestrian-oriented spaces*, adjacent *streets* and adjacent properties should be provided at least every 150 feet. Pedestrian walkways should be delineated by separate paved routes using a variation in paved texture and/or color, and protected from adjacent vehicle circulation areas with landscaping. Approved methods of delineation include, stone, brick or granite pavers; exposed aggregate; or stamped and colored concrete. Paint striping on asphalt as a method or delineation is discouraged.
- F. Creatively designed, clean and functional pedestrian alleys and walkways should provide for pedestrian linkages through mid-blocks and between properties. Low cut-off lighting shall be provided for pedestrian safety. Amenities such as seating and planters should be provided to encourage pedestrian circulation.
- G. Pedestrian access shall conform to applicable Federal, State and local codes relating to access for the disabled.
- H. Where feasible, provide steps and ramps across retaining walls and slopes to facilitate pedestrian access.
- I. If appropriate, based on site design and the land uses involved, *fences* should allow for pedestrian access by gates or openings to adjacent properties and *streets*.
- J. Landscaping shall not block visibility to and from pedestrian circulation routes, especially where it approaches a *street* or driveway. A minimum area of between 3 and 8 feet clear as measured from grade is strongly encouraged to allow for proper visibility.
- K. Where feasible, paved horizontal surfaces for walks or parking at or near the finish grade of a *building* should be separated horizontally from any wall of a *structure* by a minimum four feet for landscaping. Paved surfaces may abut the *structure* at entrances and service areas. Sidewalks may abut the adjacent *structure*.
- L. Drive-through facilities such as but not limited to banks, cleaners, fast food, drug stores, espresso stands, etc. shall comply with the following:

- i. Drive-through windows and stacking lanes shall not be located along *facades of buildings* that face a *street*.
- ii. Drive-through speakers shall not be audible off-*site*.
- iii. The entrance and exit from the drive-through shall be internal to the *site*, not a separate entrance and/or exit to or from the *street*.. The director may allow access directly from a street in special circumstances, i.e. no alley exists.

➤ **Section 2620—Relationship to Adjacent Properties**

1. Objectives.

- A. Promote functional and visual compatibility between adjacent properties.  
Avoid negative impacts to adjacent properties.

2. Design Standards:

- A. Proposed development shall coordinate with surrounding site planning and development efforts on adjacent properties.
- B. Development shall consider the following design features to create visual continuity between the proposed development and adjacent neighborhoods and the community:
  - i. Site design features: *building setbacks*, placement of *structures*, location of pedestrian and vehicular facilities; and spacing from *adjoining buildings*.
  - ii. Planting design features: composition of plant materials; type and quantity of plant materials; and *street* trees.
  - iii. Building design features: scale; massing, proportion; spacing and location of windows, doorways and other features; roof silhouette; *façade* proportions and orientation; location of entries; surface material, finish, color and texture of surrounding development; and style of architecture.
- C. In some areas, the existing context is not well defined, or may be undesirable. In such cases, the new development will be recognized as a model with the opportunity to establish a pattern of identity from which future development can take its cues. Relevant Zoning Ordinance requirements, design standards and comprehensive plan policies shall be considered as indicators of the desired direction for the area and the project.
- D. Properly link proposed development to existing and planned pedestrian, vehicular, drainage and utility systems, and assure efficient continuation of such systems.
- E. Building mass, color, lighting, and design shall be compatible with existing and planned adjacent public and private open spaces, parks and recreation areas.



Figure 1 - Building Scale and Massing

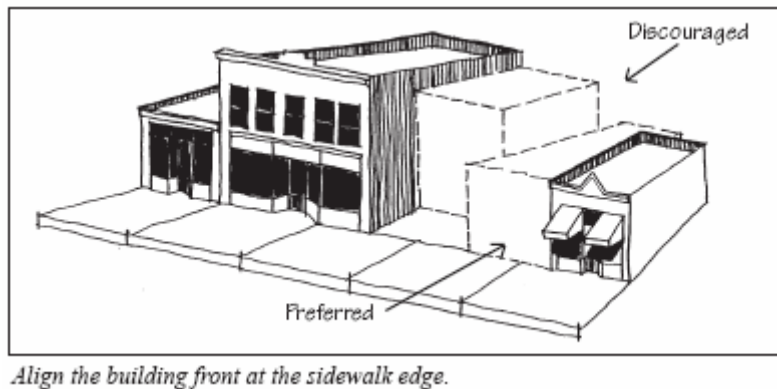


Figure 2 - Building Scale and Massing

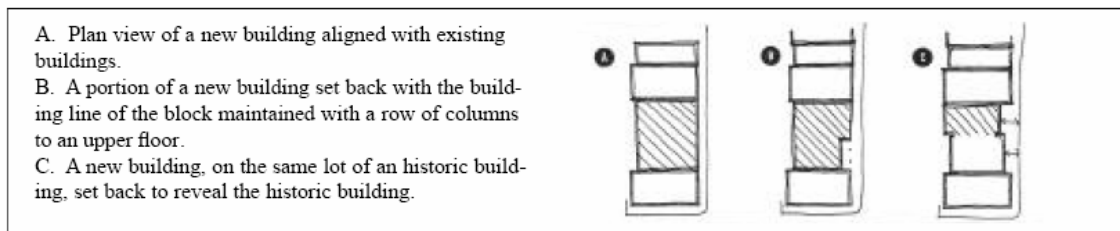


Figure 3 - Site Plan representation of Building Scale and Massing

## ➤ Section 2625—Relationship to Streetfront

### 1. Objectives.

- A. Create an active, safe pedestrian environment.
- B. Upgrade facades and streetscape to establish visual identity for Downtown Valparaiso.
- C. Unify streetscapes.
- D. Improve circulation including options for pedestrians, bicycles and vehicles.

E. Create visual interest and increased activity and public points at *street* corners.

2. Design Standards:

A. The *street* edge *shall* be defined with *building*, landscaping or other pedestrian-oriented features.

B. Buildings shall be located at the front *property line* without a *setback*. The City may allow for up to a 10-foot *setback* on *lots* that are not corner *lots* if:

- i. The *setback* area is designed and used as *pedestrian-oriented space*, is an extension of the adjacent ground floor *use* (such as tables for a restaurant, or an outdoor display area for goods for sale inside the *building*), or is used by a *use* that is permitted in the C-4 zone (such as an espresso stand).
- ii. The *setback* area is visually open to pedestrians on the adjacent sidewalk.
- iii. Vehicle parking is not allowed.
- iv. Ornamental fencing of 4 feet or less in height and landscaping is acceptable.

C. Along downtown streets:

- i. Principal pedestrian *building* entries must have direct access to the public sidewalk (entries may be on the side of *buildings* but they must be visible from the *street* and connected by a pedestrian pathway).
- ii. No large outside item display areas and no vending machines are permitted (e.g. kitchen appliances or other similarly large merchandise that is visible from the *street*). Sidewalks shall not be enclosed as *building* space for retailing. Small, temporary displays for items such as groceries, hardware, books, etc. may be allowed in the optional sidewalk finish area provided the display does not impede persons passing side by side comfortably on the sidewalk. Such items shall be brought inside at the close of business each day. A minimum open pedestrian space of four feet in width shall be maintained along the entire length of a property.

➤ **Section 2630—Pedestrian Facilities and Amenities**

1. Objectives:

A. Provide a variety of pedestrian areas to accommodate shoppers, residents, employees and visitors. Along *Streets*, a portion of the required open space should be designed as *pedestrian-oriented space*.

2. Design Standards:

A. Along *Streets*, pedestrian weather protection is encouraged:

- i. Buildings located along *Streets* may provide pedestrian weather protection at least 6-feet deep (measured from the front wall to edge of protection nearest the street) along sidewalks and pedestrian routes.

- B. Pedestrian weather protection is encouraged in public spaces such as future transit stops, display windows, and outdoor dining.
- C. Pedestrian weather protection shall comply with the following standards:
  - i. Protection may be in the form of awnings, marquees, canopies, or *building* overhangs.
  - ii. Canopies or awnings should not be higher than 15-feet above finish grade at the highest point or lower than 8-feet at the lowest point.
  - iii. The color, material, and configuration of the pedestrian coverings shall be approved by the Director. Coverings with visible corrugated metal or corrugated fiberglass are not permitted unless approved by the Director. Fabric and rigid metal awnings are acceptable if they meet the applicable standards. All lettering, color and graphics on pedestrian coverings must conform to sign code.
  - iv. Backlit awnings are not permitted.
- D. Developments with at least 100 feet of *frontage* along Street shall provide at least 4 of the following pedestrian amenities near the sidewalk. Developments with less than 100 feet of *frontage* along *Streets* shall provide at least 1 of the following pedestrian amenities near the sidewalk for each 22 feet of *frontage* (with a minimum of 2 amenities). Amenities must be consistent with the Streetscape Plan.
  - i. Window displays over the majority of the front *façade*.
  - ii. Pedestrian furniture – provide at least two of the following: (1) seating space, (2) supplemental area lighting, (3) drinking fountain, (4) waste receptacle, (5) other item appropriate to the space acceptable to the City. Such elements shall be approved by the Director and compatible with the approved Streetscape Plan.
  - iii. Space for future transit stop with seating (if applicable).
  - iv. *Artwork* integrated with public *street* improvements. The location should provide for public view but not hinder pedestrian traffic.
  - v. Decorative *screen* wall, trellis, or other *building* or *site* feature.
  - vi. Water feature or decorative drinking fountain: Shall be accessible and/or visible by pedestrians from an adjacent sidewalk or *pedestrian-oriented space*. Shall be designed to use water efficiently with low water loss from evaporation and wind.
  - vii. Decorative clock or decorative landmark.
- E. Enhance transit stops by providing rider convenience and amenities such as weather protected seating, newspaper dispensers postal boxes, sheltered public or emergency telephones.

## ➤ Section 2635—Parking Area Location and Design

### 1. Objectives:

- A. Provide safe, convenient access to and within *sites* without diminishing quality pedestrian walking or visual experiences.
- B. Minimize driveway impacts across pedestrian walks.
- C. Meet the need for adequate parking and minimize the negative effects of the automobile while encouraging transit and other forms of transportation.
- D. Minimize visual impacts of parking structures on streets and pedestrian-oriented facilities.

### 2. Design Standards:

- A. Driveways are limited to one entry lane and one exit lane per every quarter block area subject to approval by the City Engineer. Smaller lots may have a driveway passage from street to alley.
- B. No more than 65-feet of the *Street frontage* (measured parallel to the curb) shall be occupied by parking and driveways. The City may waive or modify this requirement for public safety purposes or if there is no feasible alternative. If a waiver or modification is granted, the design shall incorporate measures such as decorative *screens* along the *street frontage*. Such decorative *screens* shall include pedestrian amenities and visual continuity with structures that define the *street* edge along the *street frontage*.
- C. Vehicular access to corner lots with less than 300-feet of *street frontage* shall be located on the lowest classified *street* and as close as practical to the *property line* most distant from the intersection.
- D. Restricting vehicular and pedestrian access between adjoining parking lots at the same grade is prohibited.
- E. Where parking structures are allowed by other sections of the ordinance:
  - i. The bulk (or mass) of a parking *structure* as seen from the *street* should be minimized by placing its short dimension along the *street* edge. The parking *structure* shall include active *uses* such as *retail* or other appropriate *uses* at the ground level and/or along the *street frontage*.
  - ii. Parking *structures* shall be architecturally consistent with exterior architectural elements of the primary *structure* or adjacent traditional buildings, including rooflines, *façade* design, articulation, *modulation* and finish materials.
  - iii. Parking structure facades shall have brick cladding or a combination of brick and other masonry and have regularly spaced square or rectangular fenestration.
  - iv. Parking *structures* and vehicle entrances should be designed to minimize views into the garage interior from surrounding *streets*. Methods to help minimize such views may include, but are not limited to landscaping, planters and decorative grilles and *screens*.

- iv. Security grilles for parking *structures* shall be architecturally consistent with and integrated with the overall design. Chain link fencing is not permitted for parking *structure* fencing.

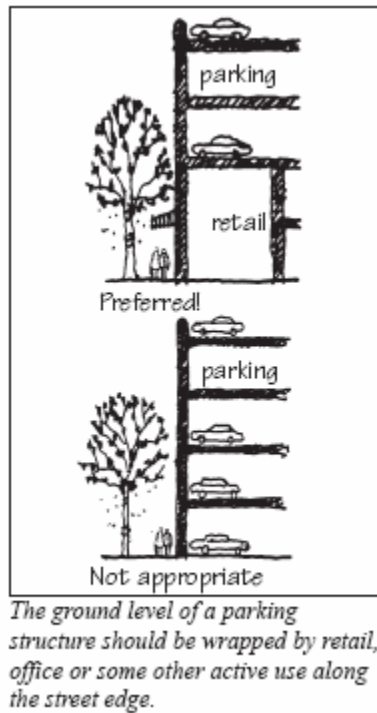


Figure 4 – Preferred Parking Structure Treatments

## ➤ 2640—Site Lighting

### 1. Objectives:

- A. Encourage the use of lighting as an integral design component to enhance *buildings*, landscaping, or other *site* features.
- B. Encourage night skies' visibility and to reduce the general illumination of the sky in Valparaiso.
- C. Screen light fixtures so that the light source is not visible off-site.
- D. Reduce horizontal light glare and vertical light trespass from a development *site* onto adjacent parcels.
- E. Encourage the judicious use of lighting in conjunction with other security methods to increase site safety.
- F. Discourage the use of lighting for advertising purposes.
- G. Provide adequate lighting levels in all areas used by pedestrians or automobiles, including *building* entries, walkways, parking areas, circulation areas, and other open space areas.

### 2. Design Standards:

- A. All public areas should be lighted with minimum and maximum levels as follows:
  - i. Minimum (for low or non-pedestrian and vehicular traffic areas): 0.5-foot candles
  - ii. Moderate (for moderate or high volume pedestrian areas): 1-2 foot candles
  - iii. Maximum (for high volume pedestrian areas and *building* entries): 4-foot candles
- B. Lighting should be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.
- C. Parking lot lighting fixtures should be non-glare and mounted no more than 25 feet above the ground. All fixtures over 15 feet in *height* shall be fitted with a full cut-off shield.
- D. Pedestrian-scaled lighting is encouraged in areas of pedestrian activity. Traditional gooseneck fixtures are encouraged on facades.
- E. Lighting shall enable pedestrians with normal vision to identify a face 15 yards away in order to promote safety.
- F. All *building* lights should be directed onto the *building* itself and/or ground immediately adjacent to it. The light emissions should not be visible above the roofline of the *buildings*.
- G. Ornamental light fixtures other than traditional cobra head street poles are encouraged.

➤ **Section 2645—Service, Loading, Outdoor Storage and Mechanical Areas**

1. Objectives:

- A. Minimize adverse visual, olfactory, or auditory impacts of service, loading, outdoor storage and mechanical equipment areas at ground and roof levels.
- B. Encourage more thoughtful siting and reduce impacts of service, outdoor storage and mechanical areas.

2. Design Standards:

- A. Landscaping or other forms of *screening* shall be provided around outdoor service, storage, loading and mechanical areas to provide sensory (visual, olfactory, auditory) *screening* from adjacent properties, *streets*, affected pedestrian circulation routes, and affected *pedestrian-oriented spaces*.
- B. Integrate outdoor storage areas and loading facilities into the *site* design to minimize their size, reduce visual impact, and where appropriate allow for pedestrian and vehicular movement between *sites*.
- C. The total area allowed for outdoor storage and/or merchandise display shall be less than five percent (5%) of the total *gross floor area* of the *use*. This standard shall not apply to temporary *uses* such as material storage during construction, street vendors, City-approved community fairs and events, and periodic outdoor uses, such as farmers markets.

- D. Dumpsters, refuse and recycling containers shall not be directly visible from the sidewalk and adjacent properties. They shall be *screened* by minimum 6-feet high masonry or solid wood enclosures painted or tinted to match the primary building designed to *screen* refuse containers, including lids, and refuse stacked in containers. Chain link fencing with slats on gates shall not be permitted except in cases where the enclosure and gates are not visible from any street, public way, alley or adjoining properties. Slats are not permitted materials on the sides and rear screening of a dumpster or similar container.

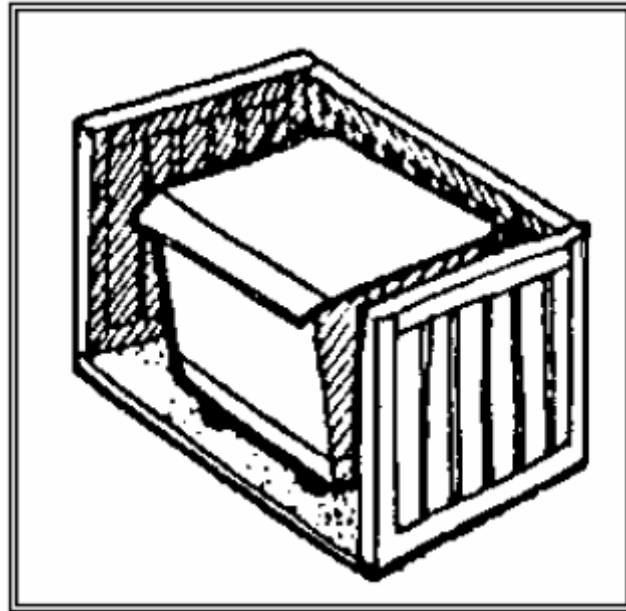


Figure 5 - Dumpster and Service Area Screening

- E. Locate and *screen* mechanical equipment at ground level and attached to *structures* to reduce visual impacts from *streets* and *adjoining* properties.
- F. Locate and *screen* service areas to reduce adverse sensory impacts.
- G. Locate and *screen* roof mounted mechanical equipment so that the equipment is not visible when viewed from ground level of adjacent properties. *Screen* or match the color of roof mounted equipment with the exposed color of the roof to minimize visual impacts when roof mounted equipment is visible from nearby *buildings* and higher elevations.
- H. Locate and *screen* utility meters, electrical conduit, and other service and utilities apparatus so as not to be visible from *adjoining* and nearby *streets*.
- I. For new projects all utilities servicing buildings within the ordinance shall be run underground to reduce visual clutter.
- J. Window air conditioning units shall not be installed on any building façade that faces a street.
- K. Low-profile mechanical units on rooftops that are not visible from public ways shall be used. Mechanical units shall be set back from the building edge and located in areas that are not visible or obtrusive. Satellite dishes, antennae, and similar technology should not be visible from the street.

➤ **Section 2650—Building Design Character**

1. Objectives:

- A. Design *buildings* that reflect a traditional main street character. Traditional main street character refers to a collection of *structures* designed and built in the early 1900's when *structures* were composed of simple forms expressed through commonly available materials such as brick, masonry, stone and ornamental trim. Design of *structures* along traditional main *streets* incorporated integral expressions responding to local climate, topography, ecosystems, and evolved social organization.
- B. Encourage *buildings* design that has visual character and creates comfortable human environments.

2. Design Standards:

- A. The general form of *structures* is to be simple, three-dimensional forms characteristic of early 1900's main streets that orient to and participate in the activities of the *street*.
- B. *Structures* with multiple component forms are to be integrated for visual unity.
- C. Visually expose components that support and/or stabilize structures when compatible with design.
- D. Avoid excessively themed architecture, corporate or franchise architecture that is not compatible with traditional main street character.
- E. Adapt *building* access to site conditions for level, convenient, obvious entry.

➤ **Section 2655—Building Scale and Mass**

1. Objectives:

- A. Encourage the use of *building* components that are *human scale*. Provide rhythm and façade scaling elements.
- B. Encourage *architectural scale* of development that is compatible with desired existing adjacent development or commercial areas within 100 feet of horizontal distance.

2. Design Standards:

- A. All new *buildings* shall provide along their *facades* that are visible from the *street* or public park or open space the following:
  - i. Upper Story Stepback: Four story or higher *buildings* must stepback upper stories by at least 10 feet measured from the *façade* of the third floor facing the *street* or public park or open space. The *Director* may waive or modify this requirement if there are stepbacks on one or more of the first three floors.
  - ii. Horizontal Building Modulation: The maximum width of building *facades* (as measured horizontally along the *building* exterior) without *building modulation* shall be a multiple of 22 feet.

- iii. Modulated roofline: Roofs are a design element and should relate to the *building façade* articulations.
  - a. For flat roofs or *facades* with a horizontal eave, fascia, or parapet – change roofline so that no un-modulated segment of roof exceeds 44-feet. Minimum vertical dimension of roofline *modulation* is the greater of two feet or 0.1 multiplied by the wall *height* (finish grade to top of wall).
- iv. All buildings should incorporate elements that divide façade planes and create a visual play of light and shadow. Long, uninterrupted horizontal elements should be avoided. *Building* articulation shall be accomplished with design elements such as the following, so long as the articulation interval does not exceed 66-feet.
  - a. Repeating distinctive window patterns at intervals less than the articulation interval.
  - b. Providing a porch, patio, *deck*, or covered entry for each articulation interval.
  - c. Providing a *balcony* or bay window for each articulation interval.
  - d. Changing the roofline by alternating parapet heights.
  - e. Changing materials with a change in *building* plane.
  - f. Providing lighting fixtures, trellis, tree, or other landscape feature within each interval.
- v. Vertical “articulation”: To moderate the vertical scale of *buildings*, the design shall include techniques to clearly define the *building’s* top, middle and bottom. The following techniques are suggested methods of achieving vertical articulation:
  - a. Top: strong eave lines, cornice treatments, horizontal architectural detailing. This treatment should return into alleyways 20 linear feet minimum and the full length of any *facades* clearly visible to the public.
  - b. Middle: Windows with thoughtful solid-to-void ratios that exhibit window patterns of adjacent traditional buildings, *balconies*, material changes, railings and similar treatments that unify the *building* design.
  - c. Bottom: Pedestrian-oriented storefronts, large windows, pedestrian scale *building* detail, kick plates below windows, sign band awnings, and arcades.
  - d. Where appropriate, the *applicant* should coordinate the horizontal elements (i.e. cornices, window lines, arcades, etc.) in a pattern and *height* to reflect similar elements on neighboring *buildings* that exhibit the City’s desired scale and character for the area.
- vi. Cluster smaller uses and activities around entrances on *street-facing facades*.
- vii. The *Director* may allow other methods that provide architecturally scaled elements not specifically listed in this section. The proposed methods must satisfy the intent of the design standards.

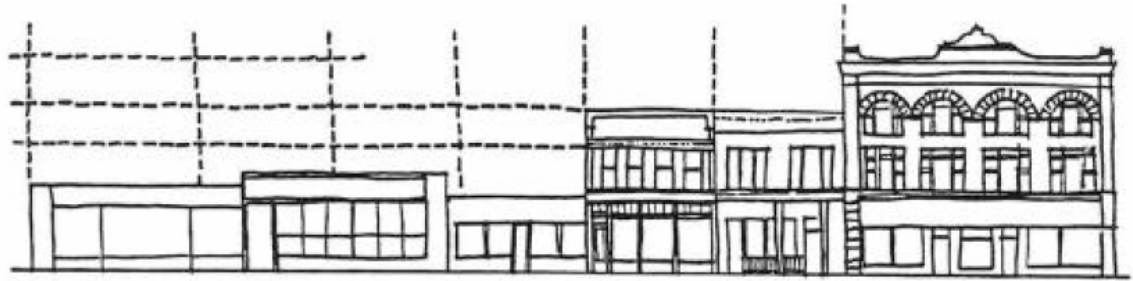


Illustration of Architectural Feature Alignment on the Block Face

Figure 6 - Horizontal and Vertical Building Modulation

## ➤ Section 2660—Building Exteriors

### 1. Objectives:

- A. Ensure that *buildings* have design integrity at all observable distances.
- B. Ensure that exterior finishes are compatible with traditional main street character.
- C. Enhance *buildings* with appropriate design details.
- D. Encourage pedestrian-friendly *street facades* along *Streets* and public parks or open spaces.
- E. Architecturally accentuate *building* corners at *street* intersections.
- F. Encourage the use of high-quality, permanent, compatible materials that will upgrade the visual image of Downtown Valparaiso.
- G. Use the architectural elements of a *building* and landscaping to highlight and define the entrance.
- H. Reduce the visual impact of large, undifferentiated walls.
- I. Reduce the apparent size of large walls through the use of various architectural and landscaping treatments.

### 2. Design Standards:

- A. Material finishes shall reflect the early 1900's main street *vernacular* for *building* materials for new building construction and buildings constructed before 1930.
  - i. A new design that draws upon the fundamental similarities among older buildings in the area without copying them is preferred. This will allow the new project to be construed as a product of its own time, yet be compatible with its historic neighbors.
  - ii. The literal imitation of older historic styles is discouraged.

- iii. A new building should maintain the alignment of key horizontal elements along the block. Windowsills, moldings and mid-belt cornices are among those elements that should align.
- A. Exterior finish colors are to (1) express the integral color of *building* materials i.e. brick, cast stone), (2) be neutral shades of natural colors found in nature in the local region, and (3) may include limited use of approved compatible accent colors. The color of neighboring *buildings* that comply with this section should be considered when selecting colors for repainting or remodeling of existing *structures* and for new *structures*.
- B. New *buildings* shall incorporate at least two of the following measures compatible with early 1900's main street buildings:
  - i. Decorative rooflines: For example, an ornamental molding, entablature, frieze or other roofline device visible from the ground level. If the roofline decoration is in the form of a linear molding or board, then the molding or board must be at least 8 inches wide.
  - ii. Decorative treatment of windows and doors: For example, decorative molding/framing details around all ground floor windows and doors, decorative glazing, or door designs located on *facades* facing *streets* or public parks or open spaces.
  - iii. Decorative light fixtures with a diffuse visible light source such as a globe or "acorn" that is non-glaring or a decorative shade or mounting.
  - iv. Natural building materials, including the following:
    - a. Masonry, brick or stone.
    - b. Other materials with decorative or textural qualities as approved by the City
- C. Note the year of construction of a *building* by the installation of a permanent case metal plaque attached to the *building*. Stone or masonry set integral with other masonry on the front *building* elevation facing the principal *street* may be used in lieu of a cast metal plaque. The year of construction is to be noted by numbers not less than six inches high but not more than 12-inches. Other information associated with the *building* that may have historic interest in the future may be included.

Building addresses shall be prominently displayed and consist of individual letters and numbers of 6-10" in height.

- E. *Building facades* located within 20 feet of a sidewalk along *Streets*, shall include transparent window area or window displays along the majority of the ground floor *façade* between 2-feet and 8-feet above ground level and three or more of the following elements:
  - i. Storefront with recessed entrance(s).
  - ii. Sign band (horizontal).
  - iii. Prominent building address.
  - iv. Seasonal planters/landscaping.

- F. All new *buildings* located within 15-feet of a *property line*, at the intersection of *streets*, are required to employ two or more of the following design elements or treatments to the *building* corner facing the intersection.
- i. Provide a corner entrance to a store, *courtyard*, *building* lobby, atrium, pedestrian pathway, or *pedestrian-oriented space*.
  - ii. Include a corner architectural element such as:
    - a. Bay window or turret.
    - b. Roof *deck* or *balconies* or upper stories.
    - c. Building core stepback “notch” or curved *façade* surfaces.
  - iii. Special treatment of pedestrian weather protection canopy at the corner of the *building*.
  - iv. Other similar treatment or element approved by the City.
- G. The arrangement, proportion and design of windows and doors (fenestration) shall conform to the following, compatible with early 1900’s main street buildings:
- i. The *height* to width ratio of single openings and group openings are to be proportionately scaled to the wall and adjacent buildings.
  - ii. Door and window details and trim suitably scaled to the wall and adjacent buildings.
  - iii. Reduce large expanses of glass used in windows and doors to smaller component windows reminiscent of traditional main street *vernacular* when adjacent to sidewalks or other pedestrian use areas.
  - v. The total square footage of windows along a *façade* facing a *street* shall be a minimum of 15% of the square footage of the *façade*.



Figure 7 – Storefront and Window Rhythm

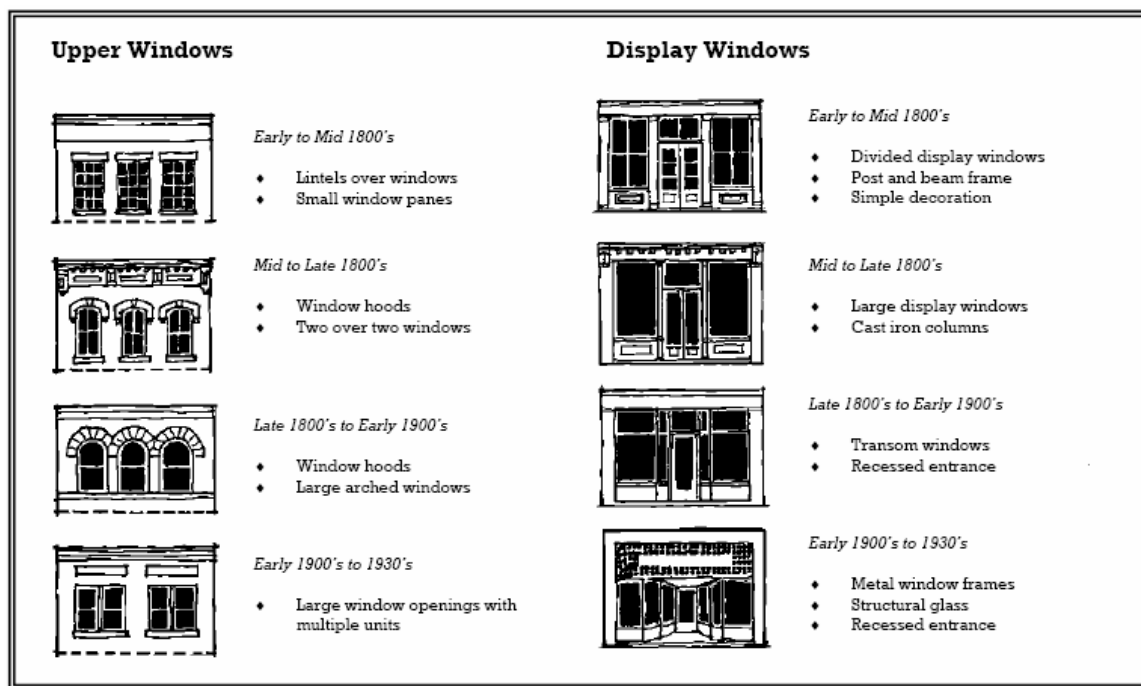


Figure 8 - Typical Historical Window Treatments

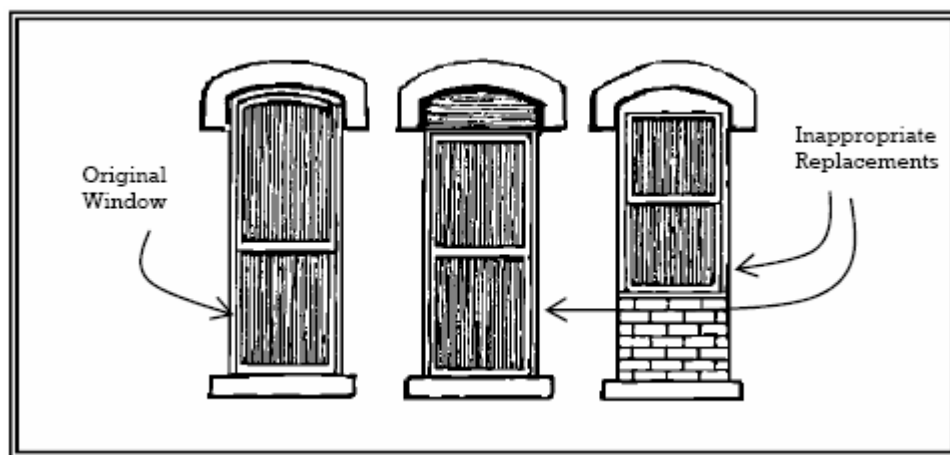


Figure 9 - Inappropriate Window Modifications

- H. Retain *facades* that reflect the heritage of the City. *Facades* of vintage *buildings* may be adapted to contemporary use with compatible materials. Use of metal or wood siding, metal *screening*, plastic, plywood, sheet wood products, or fiberglass to cover over existing, *facades* is prohibited. Wood should not be used to cover over existing brick or stone masonry.
- I. *Building* exteriors shall be constructed from high quality, durable materials. Preferred exterior *building* materials that reflect the City's desired traditional main street character are as follows:
- Masonry;
  - Cast Stone;

- iii. Tile;
  - iv. Other materials subject to approval by the City.
- J. If concrete or concrete blocks (concrete masonry units or “cinder blocks”) are used for walls that are visible from a *street*, public park or open space, or pedestrian route then the concrete or concrete block construction must be architecturally treated in one or more of the following ways.
- i. Use of polished aggregate surfaces emulating stone.
  - ii. Use of other masonry types such as brick, or tile in conjunction with the concrete or concrete blocks.
  - iii. Use of decorative coursing to break up *blank wall* areas.
  - iv. Use matching colored mortar where color is an element of architectural treatment for any of the options above.
- K. The following materials are prohibited in visible locations:
- i. Corrugated or beveled metal siding.
  - ii. Vinyl or plywood siding.
  - iii. Tinted or mirrored glass (except stained glass) as a major *building* element.
  - iv. Corrugated fiberglass.
  - v. Chain link fencing (except for temporary purposes such as a construction site or as a gate for a refuse enclosure).
  - vi. Crushed rock/crushed tumbled glass.
  - vii. Exterior Insulation Finish Systems (EIFS) when used for the dominant façade material.
- L. Building entrances should appear similar to those used historically. Clearly define the primary entrance with traditional architectural detailing, landscape features such as ornamental paving, tilework, planters and/or planting beds, or canopies. A contemporary interpretation of a traditional building entry, which is similar in scale and overall character to those seen historically, is encouraged in new buildings.



A typical recessed entryway



Recessed storefront with columns at sidewalk line

Figure10 - Typical Historical Entryway Treatments

- M. *Blank walls* shall not be visible from a *street*, public park or open space. If a property is redeveloped including improvement totaling more than 50% of the assessed value of the property, existing *Blank walls* within 50-feet of and visible from a *street*, public park or open space, or adjacent *lot*, shall be treated in one or more of the following methods:
- i. Install a vertical trellis in front of at least 50% of the wall length with climbing vines or plant materials.
  - ii. Provide a landscaped planting bed at least 8-feet wide or raised planter bed at least 2-feet high and 3-feet wide in front of the wall. Plant materials that will obscure or *screen* at least 50% of the wall's surface within 3 years are to be planted in the planting bed.
  - iii. Provide regular fenestration consistent with that of the front facade.
  - iv. Non-frontage (except rear) building walls shall be limited to a minimum of 15% glass openings and a maximum of 60%.
  - v. Other methods as approved by the City.
- M. Treatment of *blank walls* is to be proportional to the front facade. All of the proposed methods are subject to approval by the Director. The *applicant* must submit architectural plans and elevations showing proposed treatments for approval.

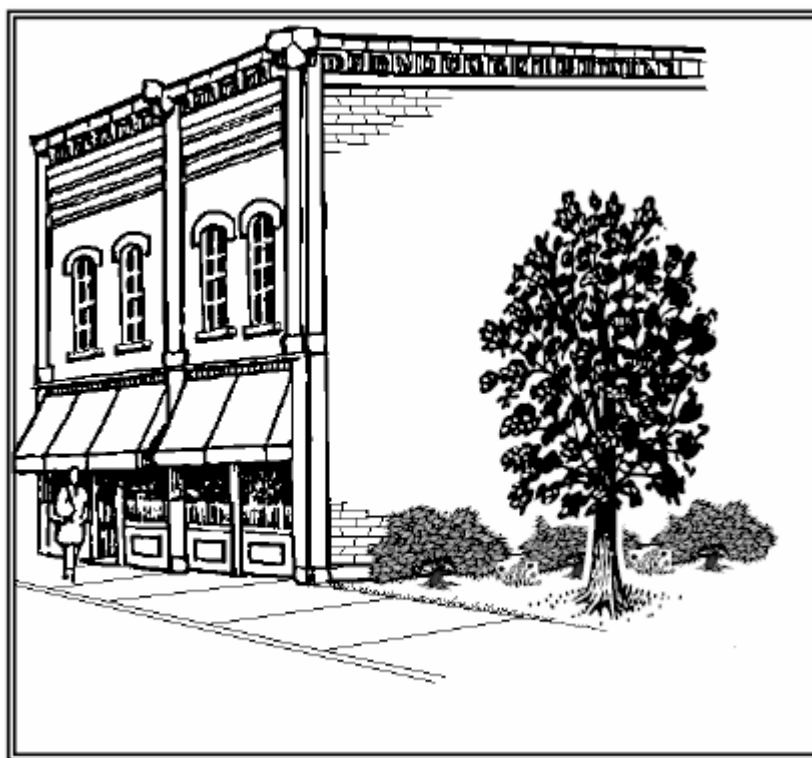


Figure 11 - Blank Wall Landscaping Treatment

- O. Prototype design for franchises should use customized components that are consistent with the desired traditional main street character and that reinforce visual consistency with other adjacent *buildings*. No franchise architecture will be allowed unless it can be shown that it is harmonious with the elements of typical early 1900's architectural detail..

## ➤ Section 2665—Signs and Awnings

### 1. Objectives:

- A. Ensure that signage and awnings installed in the CBD Central Business District are appropriate and architecturally compatible in terms of placement, materials, and appearance with early 1900's architecture of downtown Valparaiso.
- B. Ensure that existing signage and awnings in Downtown Valparaiso are brought into compliance over time.

### 2. Sign Standards

- a. Wall signs attached to the façade of buildings shall only be permitted in an area of the façade between the top of the ground floor windows and 12 inches below the bottom sill of the second floor windows, otherwise known as the “sign band”. The maximum vertical dimension of signage in this area shall be one and one-half (1 ½) feet. Wall signs shall have raised trim or a raised border of some fashion other than paint. Cabinet style signs, and internally illuminated signs shall be prohibited.



Figure 12 - Historical Wall and Awning Signage Applications

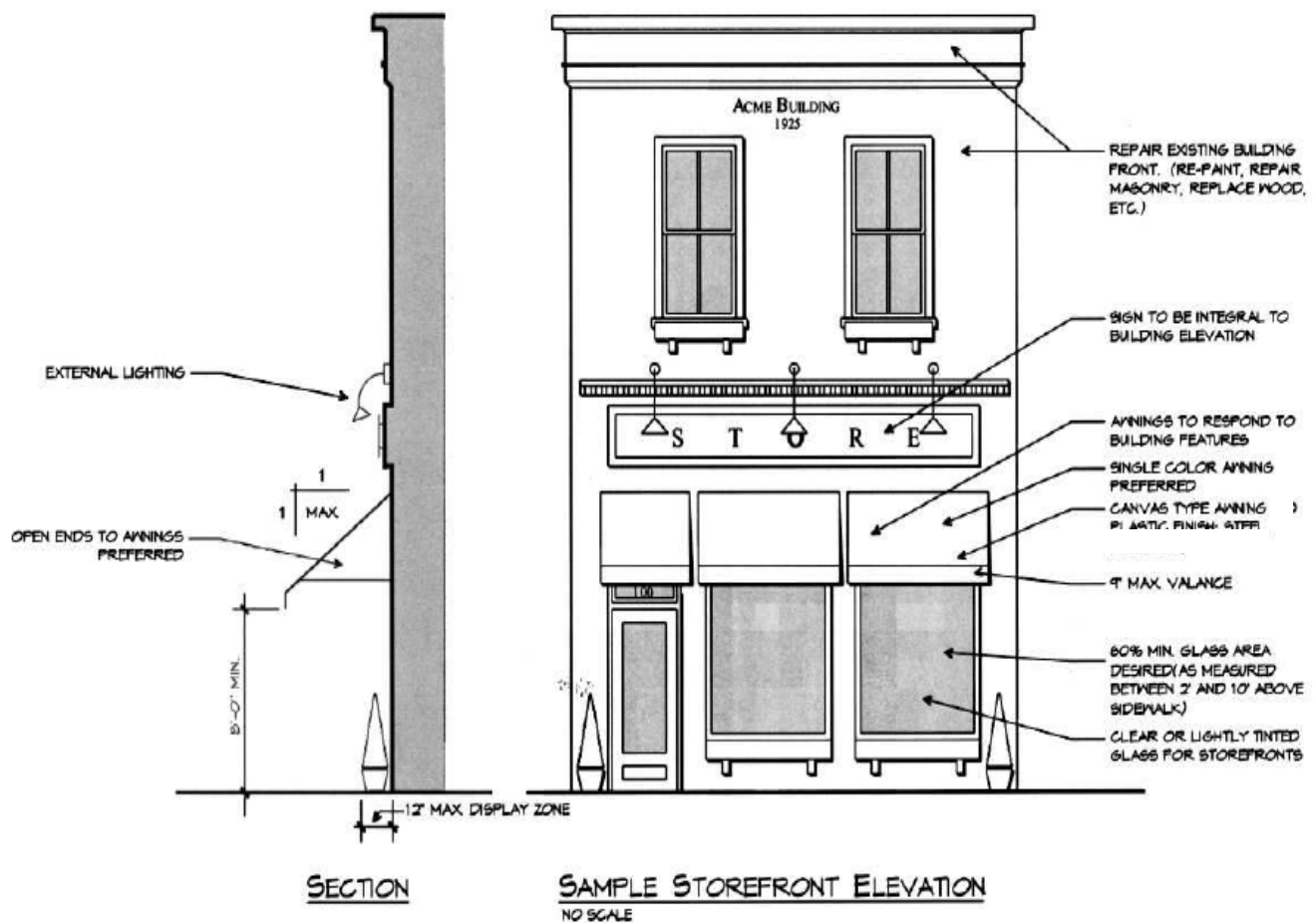


Figure 13 - Historical Signage and Awning Application

- b. Individual raised letters and numbers within the field of a sign band shall be installed with equal top and bottom margins are encouraged. Such signs shall be externally illuminated. Gooseneck style direct lighting is strongly encouraged.

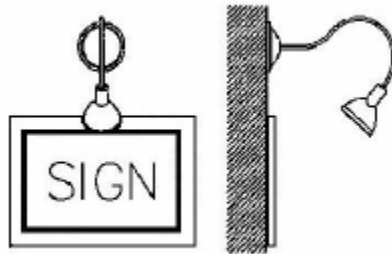


Figure 14 – Historical Wall Sign and External Lighting

- c. Window and door signage shall be limited to a maximum of 25% of the window or door window on which the signage is located.
- d. Signs should not be mounted through masonry units on the façade of the building, rather installation through mortar joints is encouraged in order to protect the integrity of the masonry façade material.
- e. Signage shall be constructed of high-quality durable materials, flat painted wooden boards (such as OSB or CDX Plywood not part of a framed sign band) and plastic letters shall be prohibited sign materials. Signage shall be created and installed by a registered sign contractor.
- f. *Movable Signage Boards.* Placement of moveable signage boards to display daily specials (such as sandwich boards) shall be permitted according to the following:
  - 1. Limited to one sign board per tenant/business with the total area of the sign not exceeding seven (7) square feet per business.
  - 2. All signage boards shall be professionally designed, printed and mounted on durable signage board.
  - 3. Signage shall be limited to the advertisement and sales of merchandise or services directly associated with the business type.
  - 4. Such signage shall be permitted to be displayed on pedestrian walkways located adjacent or nearly adjacent to the entrance of an establishment. Such signage shall not be placed in any drive or access area, nor placed within any landscape area. Such signage shall not be used as a replacement for directional signage.
  - 5. Such signage shall be located a maximum of ten (10) feet from an public entrance to an establishment.
  - 6. Such signage shall be brought inside at dusk or close of business day each day
  - 7. Such signage shall not block or impede pedestrian rights of way or walkways
  - 8. Such signage shall not be internally or externally directly illuminated.

### 3. Awning Standards

- a. Awnings shall be constructed of high-quality materials such as matte finish canvas or vinyl-coated canvas, and shall be of simple, historically compatible design to typical early 1900's downtown Valparaiso buildings. Awnings shall not be installed so as to obscure significant architectural details of a building. Bubble, box, or shiny plastic awnings shall be prohibited. Mansard awnings shall be prohibited in the CBD district. Architectural metal awnings may be permitted with approval of the Director.
- b. Solid Color or two-color striped awnings are permitted. Corporate colors on awnings are permitted only if they are architecturally compatible with the building on which the awning is attached. Overly iridescent or fluorescent colors shall be prohibited.
- c. Signage on awnings shall be limited to the vertical drip or flat face (perpendicular to the street or sidewalk) of an awning, and shall not be permitted on the sides or top slope of an awning.
- d. Awnings shall not exceed the width of a single building or building module, and shall not exceed 66' in length whichever is shorter. Awnings shall not be installed so as to extend across more than one storefront.
- e. Backlit or internally lit awnings shall be prohibited.



Figure 15 - Appropriate Awning Placement and Application

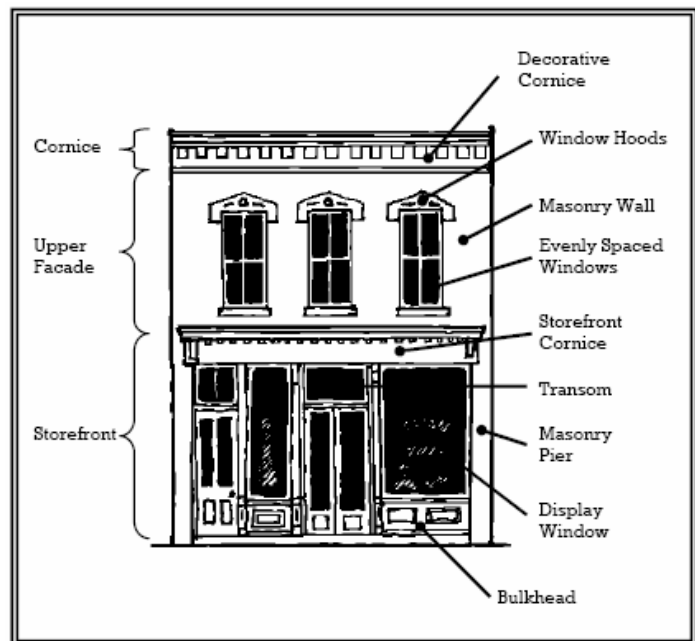


Figure 16 - Historical Building Features



Figure 17 - Typical Downtown Valparaiso Block – Then and Now

➤ **Section 2670—Definitions**

**A**

➤ **Adjoining**

Property that touches or is directly across a *street*, private street or access easement, or *right of way* (other than a freeway or principal arterial), from the subject property.

➤ **Applicant**

A property owner or any person or entity acting as an agent for the property owner in an application for a development proposal, permit or approval.

➤ **Architectural scale**

The perceived relative *height* and bulk of a *building* relative to that of neighboring *buildings*.

**B**

➤ **Balcony**

An exterior floor projecting from and supported by a structure without additional independent supports.

➤ **Blank walls**

Walls subject to “blank wall” requirements meet the following criteria:

1. Any wall or portion of a wall that has a surface area of 400 square feet having a width of at least 10 feet without a window, door, or *building modulation* as defined below or other architectural feature.
2. Any ground level wall surface or section of a wall other 4’ in *height* at ground level that is longer than 15’ as measured horizontally without having a ground level window or door lying wholly or in part within the 15’ section.

➤ **Building**

Any *structure* used or intended for supporting or sheltering any *use* or occupancy.

➤ **Building Modulation**

A stepping back or projecting forward of portions of a building façade within specified intervals of building width and depth, as a means of lessening the apparent bulk of a structure’s exterior walls.

**C**

➤ **Courtyard**

A courtyard is a landscaped space enclosed on at least three sides by a single *structure*.

## D

### ➤ Decks

An exterior floor supported on at least two opposing sides by an adjacent structure, and/or posts, piers or other independent supports.

### ➤ Director

The director of the City of Valparaiso Planning Department or his/her designee.

## F

### ➤ Facade

Any portion of an exterior elevation of a *building* extending from the finish *grade* of the *building* to the top of the parapet wall or eaves, for the entire width of the *building* elevation.

### ➤ Fence

A barrier for the purpose of enclosing space or separating *lots*, composed of:

1. Masonry or concrete walls, excluding retaining walls; or
2. Wood, metal or concrete posts connected by boards, rails, panels, wire or mesh.

### ➤ Frontage

The length of a *property line* along a *street*.

## G

### ➤ Gross floor area

The total square footage of all floors in a *structure* as measured from either the interior surface of each exterior wall of the *structure* or, if the *structure* does not have walls, from each outer edge of the roof. Area used to meet minimum parking requirements is not included in gross floor area.

## H

### ➤ Height

The vertical distance measured from average *natural grade*, to the highest point of the *structure*.

### ➤ Human scale

The perceived size of a *building* relative to a human being. A *building* is considered to have “good human scale” if there is an expression of human activity or use that indicates the *building’s* size. For example, traditionally sized doors, windows, and *balconies* are elements that respond to the size of the human body, so these elements in a *building* indicate a *building’s* overall size.

## L

### ➤ Lots

A physically separate and distinct parcel of property, which has been created pursuant to the City of Valparaiso subdivision regulations, or was legally created prior to the adoption of the first City Zoning Ordinance.

## M

### ➤ Modulation

Modulation is a stepping back or projecting forward of portions of a *building* face within specified intervals of *building* width and depth, as a means of breaking up the apparent bulk of the *structure's* continuous exterior walls.

## P

### ➤ Pedestrian-oriented space

A pedestrian-oriented space is an area located outside of the right-of-way, between a *building* and a *street* or along pedestrian path which promotes visual and pedestrian access onto the *site* and provides pedestrian-oriented amenities and landscaping to enhance the public's use of the space for passive activities such as resting, reading, picnicking, etc.

### ➤ Property line

Those lines enclosing a *lot* and those lines defining a recorded *vehicular access easement or tract*. The following are categories of property lines:

1. Front property line: Any property line that is adjacent to a *street*.
2. Interior property line: Any property line other than a front property line, and any property line that is adjacent to a *vehicular access easement or tract*.

## R

### ➤ Retail

A commercial enterprise which: provides goods and/or services directly to the consumer; and, whose goods are available for immediate purchase and/or rental; and, whose goods are available for immediate removal from the premises by the purchaser and/or whose services are traditionally not permitted within an *office use*. The sale and consumption of food are included if: a) the seating and associated circulation area does not exceed ten percent of the *gross floor area* of the *use*, and b) it can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. Goods and services offered include, but are not limited to: *convenience retail uses*.

## S

### ➤ **Screen/screening**

The treatment created with landscaping and/or decorative two-dimensional *structure* to visually conceal an area or on-*site* utilitarian use that is considered unattractive. [Ord. 273§ 1, 1999]

### ➤ **Setback**

The area on a *lot* that is required to remain free of *structures*.

1. Front setback: That portion of a *lot* adjacent to and parallel with any *front property lines* and at a distance there from equal to the required minimum front setback depth.
2. Interior setback: That portion of a *lot* adjacent to and parallel with any *interior property lines* and at a distance there from equal to the required minimum interior setback depth.

### ➤ **Site**

The entire *lot* or series of *adjoining lots* on which a *use* is or will locate and that is otherwise subject to the provision of the Ordinance.

### ➤ **Structure**

Anything permanently constructed in or on the ground, or over the water, excluding *fences* less than six feet in height, decks less than 18 inches above grade, and paved areas.

## U

### ➤ **Use**

The nature of the activities taking place on public or private property.

## V

### ➤ **Vernacular**

A *building* or complex of *buildings* that relate to, or are characteristic of a period, place or group; especially relating to or being the common *building* style of a period or place.

Part IV  
Article XXVII

**SUBDIVISION REGULATIONS**

**Section 2700                      Policy and Purpose**

**A. POLICY**

It is the policy of the City of Valparaíso to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the regulations of the Zoning Ordinance of the City for the orderly, planned, efficient, and economical development of the city.

**B. PURPOSES**

These regulations are adopted for the following purposes:

- 1) To protect and provide for the public health, safety, and general welfare of the city.
- 2) To guide the future growth and development of the city in accordance with the Zoning Ordinance and Comprehensive Plan.
- 3) To provide for adequate light, air, privacy, safety from fire, flood, and other danger, and to prevent overcrowding of the land and undo congestion of population.
- 4) To protect the character and the social and economic stability of all parts of the city and to encourage orderly and beneficial development.
- 5) To protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
- 6) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation, and other public requirements and facilities.
- 7) To provide the most beneficial relationship between the uses of land and buildings and circulation of traffic, having particular regard to avoid congestion in the streets and highways, and appropriate pedestrian traffic; and to provide for the proper location and width of streets and building lines.
- 8) To establish reasonable standards of design and procedures for subdivisions and replats of subdivisions for orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land.
- 9) To insure that public facilities are available and have sufficient capacity to serve a proposed subdivision.

- 10) To prevent the pollution of air, streams, and ponds; to assure adequate drainage; to safeguard the water table; to encourage wise use and management of natural resources to preserve the integrity, stability, beauty, and value of the land.
- 11) To preserve the natural beauty and topography of the city and insure appropriate development with regard to these natural features.
- 12) To provide for open spaces, efficient design and layout, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Zoning Ordinance.

## **Section 2710                      Definitions**

For the purpose of this Article, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense includes the future tense. Words in the singular number include the plural number and words in the plural number include the singular number. The word "shall" is always be mandatory and not merely directory. The term "person" shall mean an individual, partnership, corporation, or other association or their agents. Terms not herein defined shall have the meanings customarily assigned to them.

**ALLEY:** Any dedicated public way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

**BLOCK:** A tract of land bounded on all sides by any of the following:

- a. Streets
- b. Public Parks
- c. Railroad rights-of-way when located at or above ground level but not including sidings or spurs in the same ownership as the zoning lot..
- d. Corporate boundary lines of the City.

**BOARD:** The Valparaiso Board of Public Works and Safety.

**BUILDING:** A structure, either temporary or permanent, having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or property. Tents, awnings, or vehicles situated on private property and used for purposes of building shall also be considered a building. When any portion of a structure is completely separated from every other part thereof by division walls from the ground up, and without openings, each such portion of such structure shall be deemed a separate building.

**BUILDING LINE:** A line established, in general, parallel to the front lot line or right-of-way line, beyond which no part of a building shall project except as provided by the Zoning Ordinance.

**COMMISSION:** The Valparaiso City Plan Commission.

**COMPREHENSIVE PLAN:** The Comprehensive Plan as adopted and amended by Ordinance of the City, including graphic and written proposals indicating the general location of streets,

parks, schools, public buildings and all physical development of the city, under the provisions of Section 36-7-4-500 of the Indiana Code.

**DETENTION POND:** A structure or area of land that is configured to temporarily store a portion of the runoff from a site. The basin has a discharge control structure that allows all of the stored runoff to drain away to a drainage course.

**DEVELOPMENT PLAN:** A written document between the City of Valparaiso and a developer (see Section 3520 for details)

**EASEMENT:** Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**LOT:** A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for a purpose, whether immediate or future, of transfer of ownership or for building development.

**MASTER DRAINAGE PLAN:** The comprehensive drainage plan, as adopted and amended by the Board and Commission, which guides the Board and Commission in their decisions concerning storm water run-off.

**OFFICIAL THOROUGHFARE PLAN:** Development Plan for the City, now or hereafter adopted, which includes a major street and highway plan and sets forth the location, alignment, dimensions, identification and classification of existing and proposed streets, highways and other thoroughfares.

**STREET, ARTERIAL:** A street designated on the Official Thoroughfare Plan as "Arterial". Such streets are designated to carry large volumes of traffic. Certain arterial streets may be designated as Limited Access highway to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

**STREET, COLLECTOR:** A street planned to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways for traffic to reach Arterial streets. Such streets are designated as "Collector Streets" on the Official Thoroughfare Plan.

**STREET, LOCAL COLLECTOR:** A local street lying within a subdivision which, although not shown as a collector on the Official Thoroughfare Plan, is built to collector specifications and standards at the request of the Commission.

**STREET, LOCAL:** A street designated primarily to provide access to abutting properties.

**SUBDIVIDER:** A person engaged in developing or improving a tract of land which complies with the definition of a subdivision as defined in this Ordinance.

**SUBDIVISION:** The division of any parcel of land into two or more parcels, sites, lots, or other divisions of land any one of which is to be used for other than agricultural purposes; provided

however, that the following divisions of land shall not be considered as a subdivision under the terms of this Ordinance:

- 1) The division of a tract of land into two (2) parcels not involving the provision of any new streets; widening of existing streets; drainage plans and/or structures; easements for utilities or access; or streets, sidewalk or utility improvements, as required under the provisions of this Ordinance or under provisions as determined by the Board.
- 2) The division of land into parcels of ten (10) acres or more not involving the provision of any new streets; widening of existing streets; easements for utilities or access; or street, sidewalk or utility improvements as required under the provisions of this Ordinance or under standards as established by the Board.

#### **Section 2715                      Establishment of Control**

No plat or replat of a subdivision of land located within the jurisdiction of the Commission shall be recorded until it has been approved by the Commission in accordance with the requirements set forth in Sections 2720, 2725, and 2730 and such approval has been entered in writing on the plat by the President and Executive Director.

#### **Section 2720                      Subdivision Application Procedure and Approval Process**

Whenever any owner of land lying within the jurisdiction of the Commission desires to subdivide the same, the subdividing owner shall apply for and shall secure approval of such subdivision in accordance with the following procedures:

##### **A. Application Procedure and Requirements**

Prior to subdividing any land, an owner of the land or his representative shall submit a petition and attachments for a Primary Plat approval of subdivision plat. The application shall:

- 1) Be filed to the attention of the Executive Director at least thirty (30) days prior to the date of the next regularly scheduled Commission meeting.
- 2) Be made on forms available at the City Planner's Office.
- 3) Be signed by the subdivider, land owner of record, and a professional land surveyor, licensed to practice in the State of Indiana.
- 4) Be accompanied by a fee as set in the most recent City Ordinance.

##### **B. Primary Plat Approval**

###### **1) Application and Procedure Requirements:**

- a. An applicant for subdivision approval shall provide the Commission with 12 copies of the primary plat of the proposed subdivision. The Primary Plat shall indicate the manner in which the proposed subdivision is coordinated with the master drainage plan and the Comprehensive Plan, and shall specify how the proposed subdivision relates to the requirements of the Official Thoroughfare Plan, school and recreational sites, shopping centers, community facilities, sanitation, water supply and drainage, and other developments existing and proposed in the vicinity.
- b. The applicant shall also provide the Commission with the following information and documents for inclusion in the Development Plan:
  - i. A location map showing:

- the subdivision's name and location.
  - any thoroughfares relating to the subdivision.
  - existing elementary and high schools, parks, and playgrounds serving the area proposed to be subdivided and other community facilities.
  - title, scale, north point and date.
  - ii. A primary plat containing:
    - a soil map with interpretations for the planned use.
    - a general water management plan utilizing conservation measures to adequately handle the surface and sub-surface drainage, both on-site and off-site.
    - a soil stabilization plan for reducing to minimum erosion and sediment damage, both on- site and off-site.
  - iii. A description of the protective covenants and private restrictions to be incorporated in the plat of the subdivision.
- 2) Contents of Primary Plat:  
The primary plat shall conform to the requirements contained in Section 2725 of this Ordinance.
- 3) Referral to the Planning staff:
- a. The Executive Director shall refer the application and Primary Plat together with all other required documents to the Plan Commission, and Site Review Committee.
  - b. The Planning staff shall review the application for technical conformity with the standards fixed in the Subdivision Regulations. The Planning staff may transmit the Primary Plat to appropriate officials of agencies of local government, schools, and special districts and other official bodies as it deems necessary for consideration and review.
  - c. The Planning staff and Site Review Committee shall study the primary plat and reports of any other agency taking into consideration the requirements of the subdivision regulations and the best use of the land being subdivided. Particular attention will be given to the arrangement, location, and width of streets, the number of access points per lot, their relation to the topography of the land, sewage disposal, drainage, lot sizes and arrangements, the further development of adjoining lands as yet unsubdivided and requirements of the Comprehensive Plan.
  - d. The Planning staff may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant or his representative.
  - e. The Planning staff will work with the developer to comply with the Development Plan requirements.
  - f. The Planning staff shall within thirty (30) days after receipt announce the date for public hearing to be held on the Primary Plat and draft Development Plan.
- 4) Public Hearing:

The Plan Commission shall hold a public hearing on the Primary Plat and Development Plan. It shall give notice of the hearing in accordance with the rules of the Plan Commission then in force and pursuant to the terms of Indiana Code 5-3-1-1 through 5-3-1-9. It shall additionally give notice to all interested parties at least ten (10) days before the date set for hearing.

5) Field Trip:

The Plan Commission may schedule a field trip to the proposed subdivision, accompanied by the applicant or his representative.

6) Primary Plat and Plan Commission:

After the Plan Commission has received the Primary Plat and draft Development Plan, the report of the Planning staff, and any and all testimony and exhibits submitted at the Public Hearing, the Plan Commission shall determine if the primary plat complies with the standards set forth in this Ordinance, and if the Development Plan reflects these. If the Commission determines that the plat complies with the standards set forth in this Ordinance, it shall make a decision granting primary approval of the plat.

If the Plan Commission determines that the plat does not comply with the standards set forth in this Ordinance, or the Development Plan doesn't comply with Section 3520, it shall disapprove the plat in writing making written findings setting forth the Commission's reasons for the disapproval. Said decision shall be in writing and signed by the Executive Director of the Plan Commission and shall be provided to the applicant.

As a condition of primary approval of a plat, the Commission may specify in the Development Plan:

- a. The manner in which public ways shall be laid out, graded and improved.
- b. A provision for water, sewage, and other utility services.
- c. A provision for lot size, number and location.
- d. A provision for drainage design.
- e. A provision for other services as specified in the Subdivision Regulations.

The Commission shall approve or disapprove the Primary Plat and Development Plan within one hundred twenty (120) days after the Public Hearing has been adjourned or closed.

The approval of the Primary Plat and Development Plan shall be effective for a period of eighteen (18) months, at the end of which time Secondary Plat approval on the subdivision must have been obtained from the Plan Commission, or an extension of the Primary Plat approval be obtained from the Commission. Any plat not receiving Secondary approval within the period of time set forth herein shall be null and void and the applicant shall be required to submit a new Primary Plat for approval subject to all the new zoning restrictions and subdivision regulations.

C. Secondary Subdivision Plat

1) Application and Procedure Requirements:

Following the approval of the Primary plat, the applicant shall file with the Commission a Secondary Plat. The Secondary plat shall be presented to the Executive Director at least 14 days prior to the regular meeting of the Commission.

2) Secondary Approval

The Commission shall, within one hundred twenty (120) days after the receipt of the request for Secondary Plat approval, approve or disapprove the Secondary Plat. The action may come at any time after the Primary Plat approval.

If the Secondary Plat is approved by the Commission the original plat shall be signed by both the Executive Director and the Chairman, or presiding officer of the Commission. The signing shall only occur after the receipt of one of the following:

- a. A certificate from the City Engineer stating that:
  - i) All of the improvements and installations required under the approved construction drawings and existing ordinances have been properly installed and have been accepted by the Board, and
  - ii) that an appropriate surety guaranteeing the workmanship and material for a period of one (1) year from the date of final acceptance has also been received and approved by the Board.
- b. A certificate from the City Engineer stating that the Board has accepted appropriate surety from the developer guaranteeing the construction and installation of the improvements required under the approved construction drawings and existing ordinances and guaranteeing all workmanship and material for a period of one (1) year from the date of final acceptance of the improvements by the Board.

D. Property Currently Subject to an Annexation Petition

A property owner, who has a pending annexation petition before the City, may file an application to subdivide as provided in Section 2720. No secondary plat approval shall be sought or granted until the annexation process is completed. If the annexation petition is dismissed, withdrawn or denied, the subdivision application shall automatically be dismissed, unless a new annexation petition is filed with the City, which includes the property to be subdivided, and written request is made by the property owner, within 30 days of the annexation petition being dismissed, withdrawn or denied, requesting that the subdivision process continue.

**Section 2725                      Specifications for Documents to be Submitted**

**PRIMARY PLAT**

**A. General**

The Primary Plat shall be prepared, signed, and sealed by a professional land surveyor licensed to practice in the State of Indiana. The plat may consist of more than one sheet and shall be drawn to a scale not less than one inch equals 100 feet. The resulting plat shall be clear and legible and shall be no greater than 36 inches in its shortest dimension.

## B. Features

The Primary Plat shall show the following:

1. Proposed name of the subdivision.
2. Names and addresses of the owner of record, the subdivider, the land planning consultant, and the professional Land Surveyor who prepared the plan.
3. Streets and rights-of-way, adjoining the site of the proposed subdivision, showing the street names and including road-way widths, approximate gradients, types and widths of pavement, curbs, sidewalks, crosswalks, and tree plantings.
4. Easement locations, widths and purposes.
5. The type, location and approximate size of capacity of improvements to be installed as required by Section 2730 of this Ordinance.
6. Layout of lots, showing scaled dimensions.
7. Parcels of land, proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public, or community purposes.
8. Contours at vertical intervals of two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of five (5) feet if the general slope is greater than ten percent (10%). The topography shall extend beyond the boundary of the applicant's site a distance sufficient to show the slope and character of the lands adjacent but in no case less than 50 feet.
9. Ground water levels stated in depth to water table and a general description of the surface and subsurface drainage systems to an approved outlet.
10. Tract boundary lines showing dimensions, bearings, angles, and references to section, township and range lines or corners.
11. Building lines.
12. Standard legend and notes.
13. Other features or conditions which would affect the subdivision favorably or adversely.
14. North point, date and scale.

## SECONDARY PLAT:

### A. General

The Secondary Plat shall be prepared, signed and sealed by a professional land surveyor licensed to practice in the State of Indiana (see required certification statement in Section 2740). The plat may consist of more than one sheet and shall be drawn at a scale of not less than one inch equals 100 feet. The resulting plat shall be clear and legible and shall be on sheets on larger than 24 inches by 36 inches.

After the plat is approved, all signatures obtained and the plat has been recorded with the Porter County Recorder's office, a clear, reproducible mylar of the recorded plat shall be provided to the Office of City Engineer. Building permits may not be issued until the plat is received by the Engineer. Whenever possible, the plat will also be provided on disc.

*The Secondary Plat may include all or part of the land included in the Primary Plat.* However, in the event that less than the entire Primary Plat is contained on the Secondary Plat, the Commission may require certain assurances or guarantees or make adequate

provision including the filing of a performance bond to insure the orderly development of the remaining sections of the Primary Plat.

**B. Features**

The Secondary Plat shall show the following:

1. Holder of title to the land as shown by the last entry in the books of the County Recorder.
2. The boundary lines of the subdivision tract with accurate distances and bearings and the exact location of all existing and recorded streets intersecting the boundary of the tract.
3. Angles of true bearings and distances to the nearest established street line or existing official monuments.
4. An accurate metes and bounds description of the tract and its source of title as shown by records in the office of the County Recorder.
5. Street names approved by the City Engineering Office.
6. The length of all arcs and radii, center angles, internal angles, points of curvature and tangency, the length of all tangents, and the distance of nearest lot corners from points of curve and points of tangent.
7. All easements for rights-of-way for public services and utilities and any limitations on such easements.
8. Lot numbers and dimensions.
9. Location, type, materials and size of all monuments and lot markers.
10. The accurate outline of all property which is offered for dedication for public use with the purpose thereof indicated, and all property that may be reserved by deed covenant or restricted for the common use of property owners of the subdivision.
11. Building limitations due to soil conditions, and drainage.
12. Building line locations and dimensions.
13. Restrictions of all types which run with the land.
14. Name of subdivision.
15. Name and address of subdivider.
16. North point, scale and date.
17. Certification by a professional land surveyor registered to practice in the State of Indiana.
18. House numbers.
19. Certificate of approval by the Commission
20. Certificate of approval by the Board.
21. The acreage of each lot.
22. Reference to the recordation of the boundary survey.
23. Reference to the recordation of any Covenants and Restrictions and/or Property Owners Association documents.

**Section 2730                      Standards of Design**

**A. PLATS**

The Primary and Secondary Plats for a proposed subdivision shall be prepared under the direction and responsibility of a professional land surveyor licensed under the laws of the State of Indiana. The plats shall conform to the standards of design as prescribed in this section, the Zoning Ordinance, and Ordinance 18, 1974 (as amended) entitled "An Ordinance Providing Standards for Acceptance of Municipal Improvements" thereafter referred to as the "Standards," and any other applicable ordinances in effect at the time of application.

## B. GENERAL IMPROVEMENTS - Land Character

The design of the subdivision shall recognize and incorporate, where possible, the natural and man-made characteristics of the land both on the site and adjacent to the site. Areas with unique features such as mature trees, wetlands, scenic watercourses, or aesthetic vistas shall be preserved and shall have those features incorporated into the subdivision plan.

Lands, or portions of lands, which the Plan Commission finds to unsuitable for development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other reason or feature which may be harmful to the health, safety and general welfare of the present or future inhabitants of the subdivision shall not be subdivided or developed unless adequate provisions are made by the developer and approved by the Plan Commission to remedy and/or control the problems created by the unsuitable conditions. If the conditions cannot be remediated, those lands, or portions of lands, shall be set aside and allowed to remain undeveloped.

## C. STREETS

Streets, which provide access to the subdivision shall be connected to existing public streets at locations which will not create sight distance problems on the existing streets or interfere with the safe operation of existing intersections.

Streets, which provide access to the subdivision from existing Collector or Arterial streets shall have the connecting intersections designed so as to minimize interruption of the flow of traffic on those Collector and/or Arterial streets. At a minimum, passing blisters and deceleration tapers shall be provided on the Collector or Arterial streets. Streets exiting the subdivision onto Collector or Arterial streets shall have appropriate turn lanes to minimize the delay of vehicles entering the major street.

Subdivisions with 30 or more lots shall have at least two access points to/from existing roadways. Those access points shall be located as far apart as practical.

The street layout of the subdivision shall provide access to all building sites and parcels.

Streets shall be adjusted to the contours of the land so as to produce useable lots and streets with reasonable gradients (slopes).

Certain appropriate streets shall be extended to the boundaries of the subdivision to provide for future connections to other properties.

Street alignment within the subdivision shall utilize curves, islands, intersections, and/or other methods that allow adequate access but discourage speeding.

Wherever streets have been dedicated or platted on the adjacent properties for extension into or through the proposed subdivision then those streets shall be incorporated into the street layout of the proposed subdivision.

Wherever there exists a portion of a dedicated or platted street or alley adjacent to the proposed subdivision the remainder of the street or alley shall be platted to the prescribed width in the proposed subdivision.

Width of street and/or alley pavements shall conform to the widths specified in the Standards, and widths of rights-of-way shall conform to the widths specified in the Standards, this ordinance, and/or the Thoroughfare Plan.

Streets and/or alleys shall be designed and constructed, wherever possible, as public streets and/or alleys. The use of private streets and/or alleys shall be minimized.

Cul-de-sacs shall not be permitted except in unique or hardship circumstances.

Half width streets may be permitted only when a subdivision is located adjacent to a Collector or arterial street whose exact location is shown on the Thoroughfare Plan, and the subdivider does not have title to the other half of the proposed street. If possible, the Collector or Arterial street shall be curved into the proposed subdivision and made a part of the subdivision's street layout in order to avoid the platting and construction of a half width street.

All streets shall be constructed with curb and gutter except as provided for in the Standards. Consideration should be given to the possible need for traffic signal installations at certain intersections. If it is likely that a signal will be required either in total or in part because of the development either at present or in the future, the developer shall pay for his appropriate share of the design and installation costs for that signal. The developer shall negotiate with the Board of Public Works and Safety as to the appropriate share required.

The subdivider shall pay the City for the installation of street names signs at each street intersection, and all regulatory (stop, yield, etc.) and advisory signs as determined by the Traffic and Safety Committee and affirmed by the Board.

#### D. SANITARY SEWERS

All subdivision lots shall be connected to sanitary sewers; septic systems shall not be permitted.

Where required by the Plan Commission and/or Board, sanitary sewers shall be designed and constructed to provide for future extensions into adjacent properties. This may mean that they have to be oversized and/or constructed at a greater depth than that required for the proposed subdivision alone.

Combined sewers shall not be permitted.

All sanitary sewers shall be designed and constructed to be public sewers. Private sewers shall not be allowed.

The use of sanitary lift stations shall be avoided wherever possible. Where permitted by the Commission and Board, the lift stations shall be designed and constructed to be public stations maintained by the City and to serve the total watershed that has potential to flow to that station. The stations shall be designed and constructed to allow ease of access for maintenance and shall have provisions for increasing the size of pumps, controls or other equipment when new developments add flow to the station.

The subdivider shall obtain a construction permit from the Indiana Department of Environmental Management before any sanitary sewers are constructed. Easements shall be provided for sewers not located within the rights-of-way of public streets. Easements shall not be less than 20 feet in width. Greater widths may be required where the depth of the sewer requires or where the effective width of the easement is decreased because of the proximity of buildings or other structures.

#### E. WATER DISTRIBUTION SYSTEM

All subdivisions shall be provided with a complete potable water distribution system adequate to serve the each lot and parcel. The system shall be extended from the existing City of Valparaiso system and shall be designed and constructed to provide for future extensions to adjacent properties.

Fire hydrants shall be constructed as a part of the subdivision's water distribution system. Locations of hydrants shall be determined by the Valparaiso Fire Department.

All design and construction of water distribution systems shall be per the policies and procedures of the Valparaiso Water Department and shall meet their requirements and standards. The subdivider shall obtain a construction permit from the Indiana Department of Environmental Management before any water mains are constructed.

#### F. DRAINAGE

The subdivider shall provide a storm drainage system designed and constructed according to the requirements of the Standards and the Requirements for Storm Drainage and Floodplains in the Zoning Ordinance.

All lots shall be designed to provide positive drainage away from the houses and towards the streets and/or towards the drainage swales and ditches

If a detention facility is approved as a part of the subdivision's drainage system the subdivider shall designate ownership of the land and provide an acceptable agreement for maintenance of the facility in perpetuity. The agreement shall be made a part of the restrictive covenants along with any documents establishing a Property Owners' Association for the subdivision and those documents shall be recorded along with the Secondary Plat.

#### G. UTILITIES

The subdivider shall provide electric, telephone, natural gas, and cable television to all building sites in the subdivision.

All utilities shall be underground.

Easements for the various utilities shall be provided along front, rear or side lot lines as required by the utility providing service.

When the utilities are located in the rear of the lots, side yard easements may be required by the Board for purposes of constructing electric service lines for streetlights at the street.

#### H. SIDEWALKS

Portland cement concrete sidewalks shall be constructed along both sides of all streets, existing and proposed, in the subdivision. Walks shall be constructed according to the requirements of the Standards.

#### I. LOTS

All lots shall abut a public street. The minimum lot frontage along the right-of-way line shall not be less than 24 feet.

Side lot lines shall be located approximately at right angles to street right-of-way lines and radially on curved streets. Some variation is permissible; however, irregularly shaped lots shall be avoided.

Double frontage lots shall not be platted except that, where desired along an arterial street. Lots may front on the interior street but have no access to the arterial street. In the instances where double frontage lots are allowed, an effective, evergreen planting barrier to screen the rear of the lots shall be provided.

The lots shall meet all area and size requirements of the zoning district within which the lots are located.

The depth of a lot shall generally be approximately two times the width and shall not be greater than three times the width.

Corner lots shall be large enough to permit the required front yard setbacks from both streets.

#### J. BLOCKS

Blocks shall not exceed thirteen hundred (1300) feet in length as measured from centerline of street to centerline of street.

Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth to be platted back to back between parallel streets. Exceptions shall be allowed where a tier of lots abuts a railroad, a limited access highway, an arterial street, a park, a wetland, a boundary of the subdivision or similar item.

#### K. PARKS AND RECREATION AREAS

Any subdivision with 10 to 50 living units shall provide an open space recreation area of a size not less than .5 acre. Additional recreation space shall be provided at a rate of .01 acre

per living unit for any additional units over 50. The opens space recreation area shall be usable and accessible to the residents of the subdivision. Detention basins may be used in part for the recreation area requirement but only if the basins are designed appropriately for that recreation purpose. The open space recreation areas may be:

- a. An area owned and maintained by the Property Owners' Association; or
- b. With the consent of the City Park Department, an area dedicated to the public for Park Department uses and purposes.

If neither (a) nor (b) are feasible, the subdivider may agree to pay to the City, for park and recreation purposes, an amount equal to the value of the acreage involved.

If the open space recreation area is provided under (a) above, then the site shall be developed by the subdivider in a manner consistent with the intended purposes of the space.

#### L. SCHOOLS AND FACILITIES

Where sites for schools and other public facilities as shown in the Comprehensive Plan or Master Drainage Plan are within the proposed subdivision, the Commission may request their reservation for period of thirty (30) days following the approval of the Primary Plat. If the governmental agency connected with the proposed site fails to express intent, in writing, to acquire said site within the 30 days, the subdivider shall be released from any obligation to reserve said site. If the governmental agency does express intent in writing to acquire and subsequently fails to take action toward acquisition within one (1) year of the date of the approval of the Primary Plat, the subdivider shall be released from any obligation to reserve said site.

#### M. MISCELLANEOUS

The subdivider shall plant on each lot not less than two hardwood trees of not less than two-inch caliper. At least one of the trees shall be placed in the parkway between the sidewalk and the curb. Trees shall be of a variety other than those on the exempt list in the Article XXXI of the City Zoning Ordinance.

Easements shall be platted at all street right-of-way intersections to provide for the required sight lines across the corners of the lots.

#### N. SURVEY MONUMENTS AND MARKERS

Acceptable monuments/markers shall be:

- a. In non-pavement areas: galvanized steel or iron pipe with surveyor identification cap and not less than 5/8 inch in diameter and 30 inches in length.
- b. In pavement areas: Per A, immediately above or railroad spikes with a punch or cross mark at the point to be marked.

Markers shall be placed at:

1. All corners and bends in the subdivision boundary angles in the boundary line of survey.
2. The intersections of lot side lines and right-of-way lines.
3. All bends in lot side lines.
4. All bends in rear lot lines except where the rear lot lines are also right-of-way lines.

5. All corners, intersections, points of curve (P.C.), and points of tangency (P.T.) in all street (right-of-way) centerlines. Points set under this paragraph shall be set only after the pavement binder or finished surface is in place.

The Secondary Plat shall show the type, character, and location of all markers found and/or to be set per this section.

#### **Section 2732                      Amending a Subdivision Plat**

All subdivisions shall be developed as delineated on the approved Secondary Plat and Development Plan as recorded. All recorded documents and amendments shall be binding on applicants, their successors, grantees, and assigns, and shall limit and control the use of the subdivided land and location of structures. After all plats and documents have been recorded, any major amendments to the subdivision will require a public hearing and approval by the Plan Commission. Any minor amendments will require approval by the Plan Commission. Both major and minor approved amendments shall be recorded with the Porter County Recorder.

1. Major amendment - any change that alters the concept, uses, or intent of the subdivision including increase in density, increase in height of buildings, reduction of open space, changes in sequence of development, changes in road/street standards, and/or changes in covenants and/or the approved Development Plan.
2. Minor amendment - any change that does not alter the concept or intent of the subdivision or the Development Plan and is not defined as a major amendment.

#### **Section 2735                      Variance**

- A. Where the Plan Commission finds that the strict compliance with the terms of this Ordinance would cause unnecessary hardship or practical difficulties because of exceptional and unique conditions of topography, access, location, shape, size, drainage or other physical features of the site, and the Commission further finds that the purposes of this Ordinance may be served by an alternative proposal, it may approve variances modifying the minimum requirements of this Ordinance, so that substantial justice may be done and public interest protected.
- B. No such variance shall be granted if the granting of the variance will be detrimental to the public safety, health or welfare, or injurious to other property or if it would have the effect of nullifying the intent and purpose of the Zoning Ordinance, the Comprehensive Plan or these regulations.
- E. In approving variances, the Plan Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance.
- F. A petition for any such variance shall be submitted in writing by the subdivider at the time when the application for subdivision approval is filed for the consideration of the Plan Commission and all of the facts relied on by Petitioner.

#### **Section 2740                      Plat Certification and Deed of Dedication**

The following forms shall be used on all Secondary plats:

A. Plan Commission Certificate

Under authority provided by Indiana Code 36-7-4-etc. enacted by the General Assembly of the State of Indiana and Ordinance adopted by the Common Council of the City of Valparaiso, this plat was given approval by the City as follows:

Approved by the Valparaiso Plan Commission at a regular meeting held on \_\_\_\_\_, 200\_.

Valparaiso Plan Commission

\_\_\_\_\_  
President

\_\_\_\_\_  
Executive Director

B. Surveyors Certificate

I, \_\_\_\_\_, hereby certify that I am a Land Surveyor Licensed in compliance with the laws of the State of Indiana, and that to the best of my knowledge, this plat conforms to the Requirements of Part IV, Article XXVII of the City of Valparaiso Zoning Ordinance, and Ordinance No. 18, 1974, as amended; that the markers and monuments shown on the plat actually exist; and that their location, size, type and material are accurately shown.

C. Deed of Dedication

We, the undersigned \_\_\_\_\_ owners of the real estate shown and described herein, do hereby certify that we have laid off plat and subdivided said real estate in accordance with the attached plat. This subdivision shall be known and designated as \_\_\_\_\_. All streets and alleys shown and not heretofore dedicated are hereby dedicated to the public. Front and side yard building setback lines are hereby established as shown on this plat. There are strips of ground \_\_\_\_\_ feet in width as shown on this plat and marked "easement", reserved for the use of public utilities for the installation of mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities and to the rights of the owners of other lots in this subdivision.

(Additional dedications and protective covenants or private restrictions would be inserted here; important provisions are those specifying the use to be made of the property and, in the case of residential use, the minimum habitable floor area).

(If Covenants and Restrictions are listed on the plat, then the following paragraph shall follow):

The foregoing covenants, or restrictions, are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 20\_\_, (twenty-five year period), at which time said covenants or restrictions shall be automatically extended for successive periods of ten (10) years unless by vote of a majority of the then owners of the building sites covered by these covenants or restrictions it is agreed to change such covenants or restrictions in whole or in part. Invalidation of any one of the foregoing covenants or restrictions by judgment or court order shall in no way affect any of the other covenants or restrictions which shall remain in full force and effect. The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected or maintained in violation hereof, is hereby dedicated to the public and reserved to the several owners of the several lots in this subdivision and their heirs and assigns.

Witness our Hands and Seals this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_.

\_\_\_\_\_  
\_\_\_\_\_

STATE OF INDIANA)  
 ) SS:  
COUNTY OF PORTER)

Before me, a Notary Public, in and for the said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing as his voluntary act and deed on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

My Commission Expires:\_\_\_\_\_

D. Board of Public Works and Safety Certification

Under the authority of Ordinance 18, 1974, as amended, the plan was examined by the Board of Public Works and Safety of the City of Valparaiso and approved this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_.

\_\_\_\_\_  
David A. Butterfield, Mayor

ATTEST:                      David Pilz, member  
                                    John Howell, member  
                                    Sharon M. Swihart Clerk-Treasurer

**Section 2745**

**Validity and Severability**

This Article and the various sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any section, paragraph or clause is adjudged to be unconstitutional or invalid, it is hereby provided that the remainder of Article XXVII shall not be affected thereby.

**Section 2750                      Conflicting Provisions Repealed**

All Ordinances and/or parts of Ordinances in conflict with this Article XXVII are hereby and expressly repealed. That portion of the document designated as the Valparaiso Zoning Ordinance and entitled "Subdivision Regulations" is hereby expressly repealed in its entirety.

Part IV  
Article XXVIII

**EROSION CONTROL ON SITES WITH LAND DISTURBING ACTIVITIES**

**Section 2800                      General**

**A. AUTHORITY**

This ordinance is adopted under the authority granted by Indiana Code 36-1-4-11, 36-7-4, and all acts supplemental and amendatory thereto. This authority provides for the administration, enforcement and amendment of this ordinance for controlling soil erosion in the City of Valparaiso, Indiana.

**B. FINDINGS AND PURPOSE**

1. **FINDINGS.** The Common Council of the City of Valparaiso, Indiana finds that soil erosion resulting from land disturbing activities can cause a significant amount of sediment and other pollutants to be transported to locations including watercourses, wetlands, lakes and reservoirs.
2. **PURPOSE.** The purpose of this ordinance is to preserve certain natural resources; to protect the quality of air and water, and to protect and promote the health safety and welfare of our citizens, to the extent practical by minimizing the amount of sediment and other pollutants resulting from soil erosion that is a result of land disturbing activities, from being transported to adjacent lands, watercourses, wetlands, lakes and reservoirs.

**C. OBJECTIVE**

The objective of this ordinance is the control of wind borne and/or water borne soil erosion and the resulting sedimentation that is accelerated by land disturbing activities in the City of Valparaiso. Measures taken to control erosion and sedimentation should assure that sediment is not transported to improper locations by wind or water. The intent of this ordinance is to require practices that will control soil erosion and thereby minimize the amount of soil and sediment leaving sites where the vegetative cover has been disturbed. The ordinance applies to land disturbing activities including those associated with agricultural, commercial, industrial, institutional, residential and highway development.

**D. DEFINITIONS**

The following definitions apply to this ordinance:

1. "Applicant" means the specific person executing the application form for the permit.
2. "Board" means the Board of Public Works and Safety of the City of Valparaiso, or their designated representative(s).
3. "Erosion" means the wearing away of the land surface by water, wind, ice, gravity, or other geological agents.
4. "Erosion control measure" means a specific practice, or combination of practices, to control erosion and resulting sedimentation.
5. "Erosion control plan" means a written description of pertinent information, drawings, sketches, reports, and other appropriate data concerning erosion control measures designed

to meet the requirements of this ordinance for a specific site and activity, and submitted to the Board for approval.

6. "Land disturbing activity" means any person-made change of the land surface, including removing vegetative cover, excavating, filling, and the related transport of excavated materials on city streets.
7. "Person" means any entity, including an individual, corporation or partnership holding title to or having an interest in land, operating, leasing, renting or having made other arrangements with the title holder by which the title holder authorizes use of his or her land. "Person" also means any agent, representative, contractor, sub-contractor, consultant or other individual authorized by the title holder to act on his behalf for the purposes of this ordinance.
8. "Runoff" means that portion of precipitation, snow melt, or irrigation that flows over the ground surface.
9. "Site" means the entire area included in the legal description of the land on which the land disturbing activity is proposed. "Site" also means the lands on which land disturbing activities take place which may be outside the legal description but are necessary for the completion of the improvements.
10. "Watercourse" means a storm sewer, culvert, ditch, swale, stream, ravine, channel, cunette, or other means (natural or man-made) which conveys water from one location to another.

#### E. APPLICABILITY

This ordinance applies to all land disturbing activities within the boundaries and jurisdiction of the City of Valparaiso, Indiana, except for the following:

1. Land disturbing activities involving less than 3000 square feet of land, unless those sites are immediately adjacent to a storm sewer inlet, ditch, stream, wetland or other watercourse, or unless those sites are on ground with a slope of 6 percent or greater.
2. Land disturbing activities specifically exempted in writing by the Board, or their authorized representative, because of conditions unique to the site that make the use of soil erosion controls unnecessary.

#### F. GENERAL DESIGN PRINCIPLES

The following principles apply to all land disturbing activities within the City and should be considered when preparing construction plans and/or submissions required under this ordinance:

1. To minimize the potential for soil erosion, development should fit the topography and soils of the site. Areas with steep slopes where deep cuts and fill would be required should be avoided.
2. Natural vegetation should be maintained and protected wherever and whenever possible. Areas immediately adjacent to watercourses, wetlands and lakes should be left undisturbed wherever possible.

3. All construction activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
4. Sediment basins, silt traps and filters should be installed prior to the beginning of construction to remove as much sediment as possible from runoff leaving the site or entering watercourses, wetlands, lakes or reservoirs.
5. The selection of soil erosion and sedimentation control measures should be based on the size of the project, the frequency of climatic events likely to accelerate erosion, the season during which the project is being constructed, and the potential for damage should erosion and sedimentation occur.
6. In the design of erosion and sedimentation control measures the requirements for proper maintenance should be considered.
7. Provision should be made to accommodate the increased runoff caused by changed surface and soil conditions both during and after development. Drainage ways should be designed so that their final gradients and resultant velocities will not cause erosion.
8. Provision should be made for the proper transport of soil from the site without tracking or spilling soil along the transport route.
9. Permanent vegetation and erosion control structures should be installed and temporary structures removed prior to the issuance of final occupancy permits.

#### **Section 2810                      Design Criteria, Standards and Specifications**

All erosion control measures, including, but not limited to those required to comply with this ordinance, shall meet the design criteria, standards and specifications as adopted by the Board and those listed in the "INDIANA HANDBOOK FOR EROSION CONTROL IN DEVELOPING AREAS".

#### **Section 2820                      Specific Requirements**

Control of erosion and sediment through the entire duration of the land disturbing activity is the responsibility of the applicant. The following measures shall be utilized where required to provide the necessary control.

1. Runoff from off-site and flowing through the land in question shall be diverted around the land disturbing activity by means of swales, channels, ditches, culverts or storm sewers. The diversion may be a temporary installation, utilized only until the land disturbing activity is complete, or it may be a permanent part of the proposed improvement on the land. Such diversion shall not be such that it causes drainage or erosion problems down stream.
2. Any detention basin proposed for the site should be utilized during construction as a sediment basin to trap as much soil as possible. Such basins shall be designed for this purpose, utilizing over excavation for temporary sediment storage, temporary perforated standpipes and or stone filters as required by proper engineering design.

3. Temporary sediment traps may be required in areas where runoff exits the site and is likely to carry sediment from eroded soils on the site. The temporary traps shall be sized proportionate with the expected flow rate from the site.
4. Ingress and egress to the site shall be by way of coarse stone drive(s) of sufficient length to cause soil picked up by the tires of vehicles to be dropped before the vehicle enters the roadway. Drives shall be designed and situated so that they provide maximum protection against tracking of soil or mud onto the street. For single family and duplex home sites the stone drive should coincide with the final location of the drive to the residence.
5. Drain inlets and entrances to culverts shall be protected with an installation of silt fence.
6. All disturbed ground left inactive for a period of twenty-one (21) days shall be seeded, sodded or stabilized with mulch or equivalent. Between the dates of October 1 and the release of the frost law in the following year, the disturbed ground shall be stabilized with the use of silt fence or approved equivalent.
7. Storage piles of soil left for longer than 3 days shall be completely encircled with silt fence. If left inactive or unused for longer than twenty-one (21) days the pile shall be seeded, sodded, or covered with a mulching fabric or tarpaulins.
8. Stone check dams shall be used in open drainage courses to slow velocities of the runoff and allow sediment to drop out of the runoff.
9. Silt fence shall be installed along the down slope edges of all disturbed areas on the site. In general, silt fence shall be installed at the edges of pavements, adjoining properties and open water courses whenever the adjacent ground slopes towards that street, adjoining property or watercourse.

#### **Section 2830                      Maintenance of Erosion Control Measures**

All erosion control measures shall be maintained throughout the course of the construction or until the growth of vegetation has made them unnecessary. If silt fence is temporarily removed to allow access to a portion of the site it shall be re-installed at the end of the work day. The applicant is responsible for the maintenance of all erosion control measures.

#### **Section 2840                      Erosion Control Plan**

An erosion control plan, (the plan) shall be submitted with each application for an Erosion Control Permit. The Board shall have the authority to waive any of the requirements for the plan.

##### **A. ONE, TWO AND THREE FAMILY HOME SITES**

The erosion control plan for one, two and three family home sites shall be made a part of the sketch provided with the application for a building permit. It shall be prepared by the applicant and shall show, as a minimum, the direction of surface slopes (arrows), any watercourses on the lot, and the location of the silt fence and/or other erosion control installations proposed.

## **B. MULTI-FAMILY, AND ALL NON-RESIDENTIAL SITES**

The Erosion Control Plan for multi-family and all non-residential sites shall conform to the following:

1. The plan shall be prepared by an Indiana Licensed Professional Land Surveyor, Engineer, Architect or Landscape Architect.
2. The plan shall be drawn to a scale adequate to clearly show the site and the required information. In no case shall the plan be drawn to a scale less than 1"=100'.
3. The plan may incorporate one or more sheets as necessary to clearly convey the intent of the plan. The plan may also incorporate text to explain any specifics of the plan, cover the specifications for the materials required or convey the development phasing.
4. As a minimum the plan shall show all existing and proposed:
  - a. Site boundaries, lots, etc.
  - b. All watercourses (with sizes), ponds, lakes, wetlands.
  - c. Apparent floodplains, floodway fringes, and floodways.
  - d. Soil types and their erodability. The information provided in the Soil Survey of Porter County, Indiana, as published by the U.S. Dept. of Agriculture, Soil Conservation Service, is appropriate.
  - e. Vegetative cover such as crops, grass, weeds, and/or trees.
  - f. Utilities, structures, road pavements and other improvements.
  - g. Existing contours at an interval not greater than 2 feet. An adequate number of spot elevations may be provided in lieu of the contours.
  - h. Locations and dimensions (where applicable) of all proposed erosion control measures.
  - i. Provisions for maintenance of the erosion control measures during the course of the project.
  - j. Provisions for removal of the temporary measures when final vegetation and control structures are established.

## **Section 2850 Permits**

### **A. GENERAL**

A permit shall be obtained for any land disturbing activity governed by this ordinance. The permit shall be on a form approved by the Board and shall be processed through the office of the City Engineer.

### **B. PERMIT CONDITIONS**

All permits shall require the applicant to:

1. Notify the Engineering Department at least 24 hours before beginning any land disturbing activity.
2. Obtain the permission of the Board before modifying the erosion control plan.
3. Install and maintain all erosion control measures as identified in the erosion control plan.
4. Maintain all road drainage systems, storm water drainage systems and other facilities as identified in the erosion control plan.
5. Remove sediment resulting from land disturbing activities from adjacent surfaces and/or drainage courses.
6. Allow the Engineering Department to enter the site to verify compliance with the erosion control plan or to perform any work necessary to bring the site into compliance with the erosion control plan.

7. Submit a revised plan for approval if the nature of the project changes from that proposed under the permit.

#### C. PERMIT SURETY

Applicants for permits for individual one, two and/or three family home sites shall be exempt from the conditions of this sub-section.

As a condition of the approval and issuance of the permit the applicant shall provide surety in the amount of not less than \$5000 which shall remain in full force and effect throughout the length of the permit.

For contractors who regularly do work within the City on this or other types of projects may file a continuous surety bond with the City to cover the requirements of this section. Renewal notices shall be issued annually. Unless provided otherwise this same bond may be used to cover other City projects.

If a contractor maintains a performance bond recorded with Porter County and said bond includes all cities, towns and municipalities within the county under the coverage, the City will accept a copy of that bond in lieu of separate surety to the City. However, renewals, continuation certificates, and notices of cancellations must be directed to the City of Valparaiso by the bonding agency.

#### D. PERMIT FEES

The Board shall formally adopt a resolution establishing application fees for the erosion control permit. Such fees shall reflect the cost of reviewing the erosion control plan, verifying satisfactory surety, reviewing the permit application and inspecting the erosion control measures on the site.

#### E. LENGTH OF PERMIT VALIDITY

In the event that the land disturbing activities are not started within 6 months and/or the work is not completed within 3 years from the date of the permit said permit shall become invalid and a new permit shall be obtained.

### **Section 2860 Enforcement**

#### A. STOP WORK ORDER

The Board may post a stop work order per the provisions of chapter 30 of the Municipal Code for any work not conforming to the requirements of this ordinance. The stop work order may be lifted only after the work has been made to conform with this ordinance or by appeal to the Board. If, after the stop work order has been issued for a period of not less than 10 calendar days and the work is not in compliance with this ordinance the Board may serve notice of forfeit of any surety provided with the permit.

#### B. WITHHOLD PERMITS

The Building Commissioner may refuse to issue building permits to any applicant who is in violation of this ordinance and has received notification of that violation. The permits may be for sites other than those where the violations have occurred. The Building Commissioner may

withhold issuance of the permits until the violations are corrected to the satisfaction of the City Engineer.

**C. FINES FOR VIOLATION**

In addition to any and all other remedies set forth in this ordinance for a violation thereof, the City Engineer may, for any violation of this ordinance, levy a fine against the violator(s) of up to the maximum allowed by the provisions of the Ordinance Violations Bureau, Chapter 37 of the Municipal Code, for each occurrence, each day being a separate occurrence. The City Engineer shall notify the violator(s) of such fine, in writing, on a form approved by the Board. The violator shall pay the levied fine through the Local Ordinance Violations Bureau. The City Engineer may levy a fine for each and every day that the violation is continued.

**D. REVOCATION OF SURETY**

In the event that other enforcement remedies listed herein do not cause the correction of the violation(s) the Board, acting on the recommendation of the City Engineer, may initiate a claim upon any bond or surety posted with the application. The Board may seek recovery of any costs associated with the correction of the violation(s) along with any fines levied and not paid.

**E. COURT ACTION**

The Board may elect, in lieu of the fine set forth above but in addition to all other remedies set forth in this Ordinance, to seek a fine for such violation in a court of competent jurisdiction in an amount up to the maximum permitted by IC 36-1-3-8.

**Section 2870                      Administrative Appeals - Judicial Review**

**A. BOARD OF ZONING APPEALS**

The Board of Zoning Appeals of the City of Valparaiso shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Board in administering this ordinance.

Upon appeal, the Board of Zoning Appeals may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hindrances.

**B. JUDICIAL REVIEW**

Final decisions of the Board of Zoning Appeals are subject to review by Porter County Circuit Court provided an appeal is filed within 30 days from the date of final decision of said Board.

**Section 2880                      Effective Date**

This ordinance shall be in full force and effect from and after passage by the Common Council of the City of Valparaiso, Indiana and the approval by the Mayor of the City of Valparaiso, Indiana.

**Section 2890                      Severability**

Should any portion or clause of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction the remaining portions of this ordinance shall be given their full force and effect to the extent reasonable and logical.

**Part IV**  
**Article XXIX**

**SIGNATURE CORRIDOR OVERLAYS AND GATEWAY DEVELOPMENT**

**Section 2900                      Purpose**

The intent of this corridor design overlay is to create a unified sense of character while developing a functional transportation plan. This can be accomplished by regulating building setbacks, intersections and drives, providing pedestrian and bike connections, and establishing minimum standards for landscape requirements. The linear landscape treatment will provide continuity throughout the corridor, with major emphasis at the intersections.

This ordinance includes the original overlays for both State 49 (Article 29) and US 30 (Article 32). Both State 49 and US 30 (Morthland Drive) are Signature Street/highways with limited access, and are important means of transportation in Porter County, with access to interstates and other major highways. It is therefore important to preserve the aesthetic qualities of the bordering properties through the establishment of basic standards, and the encouragement of efficient land uses.

It is also the intent of this ordinance to develop gateway designs for new and existing main districts and corridors; to promote design requirements for utilities, lighting, landscape, curb and sidewalk, detention areas, signage, building quality types, and utilities for key existing and new commercial areas; and include aesthetic design considerations and improvements in city projects.

**Section 2910                      Scope of Application**

This ordinance covers development and redevelopment within 600 feet of the right-of-way along both sides of the following corridors: Washington Street from Morthland to Lincolnway; Lincolnway from west city limits to LaPorte and east city limits ; Morgan/Calumet from Lincolnway to north city limits; along both sides of the Local Signature Streets: 700N from State 149 to State 49; State Route 2 from 150W to Morthland; Campbell St. from Lincolnway to 700N; Vale Park Road from State 130 to State 49; Burlington Beach Road from Calumet to east city limits; Calumet from Burlington Beach to 700N; Silhavy Road from US 30/Morthland Drive to Calumet; and Regional Signature Streets: US 30/Morthland Drive from Joliet to Porter/LaPorte County line; State 49 from Division to 700N; and State 149 from State 130 to 700N (see Figure 8).

**Section 2920                      Administration**

The administration of this ordinance supersedes the underlay zoning requirements. Any conflict between the provisions in this section and other articles of the City of Valparaiso Zoning Ordinances is resolved in favor of the provisions of this article. Any issues not covered in this overlay, the existing Zoning Ordinance will be in effect. Optional design standards will be considered by the Plan Commission for any sections of a signature street. The effective date of this ordinance is Sept. 11, 2000.

## **Section 2930                      Definitions**

**Access/frontage road:** a street parallel to a Signature Street that allows access to various lots that do not have direct access to the Signature Street. The Access/frontage road location will be determined at the time of Site Review and can be parallel to the Signature Street right-of-way or placed behind buildings. Wherever possible, Access/frontage roads will connect to major arterials or collectors.

**Building, front line of:** the line of the face of the building nearest the front lot lines.

**Building, height of:** the vertical distance measured from the lot ground level to the highest point of the roof for a flat roof, the deck line of a mansard roof, and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

**Building line/building setback line:** the line that establishes the minimum permitted distance on a lot between the front line of a building and the front line of a lot.

**Front yard:** that side of a lot, including any corner lot, between the building and the right-of-way of either State 49 and/or US 30 (Morthland Dr.)

**Gateway** – an intersection designated as an entrance into the city or into the downtown area; that is planned for additional design elements to “announce” the arrival to a special place.

**Greenbelt:** a portion of the front yard of a lot which is parallel to the right-of-way of either State 49 and/or US 30 (Morthland Dr.) reserved for landscaping and/or monument signage, and has a minimum depth of thirty (30) feet on State 49 and 15 feet on US 30. The greenbelt is not part of the street right-of-way but can be in the unpaved portion of an access/frontage road right-of-way.

**Prototypes** – do not represent any actual street segments but are reasonable examples of the kind of roadway cross-sections and abutting development that should occur over time as Valparaiso develops.

**Right-of-way** – the public area dedicated to the city that includes the paved street area, sidewalks, and underground utilities. A designated right-of-way means this area has been dedicated to public access.

**Signature street** – (see Figure 8) these special streets set the design standard for the community and include standards for utilities, signs, landscaping, traffic control and lighting. These standards define the quality commitment of the city to its residents, and will upgrade the way individuals absorb their community and their environment. As important circulation routes, the city is viewed daily from these corridors. The signature streets define Valparaiso, where people live, work, carry out business, choose to shop or just visit. It is expected that major land use investments will be attracted to these routes because of their prominence, the access they provide and if developed as proposed the prestige factor of being located along one of Valparaiso's unique signature streets.

## **Section 2932                      Identification of Types and Locations of Signature Streets** **Signature Streets**

These corridors are shown on Figure 8. They have been selected for their ability to link the entire

community and where the most development and redevelopment are happening. They are very important circulation routes and gateways into and out of the City. Both sides of these streets are included in this ordinance. Prototypes of recommended intensity of design and appropriate design concepts and materials are presented in Figures, 9 and 9.5 Both these design prototypes are intended to show how a signature corridor can be comprehensively designed. They do not represent any actual street segments in Valparaiso but instead are reasonable prototypes of the kind of roadway cross-sections and abutting development that should occur over time as Valparaiso develops.

### **1. Highest Priority Signature Streets**

The highest priority signature streets are those with the most development and redevelopment potential. They are also the major access points into and out of the City. Highest priority signature streets are both sides of:

- Washington Street from Morthland to Lincolnway
- Lincolnway from west city limits to LaPorte and east city limits
- Morgan/Calumet from Lincolnway to Burlington Beach Road

### **2. Local Signature Streets**

The Local Signature Streets are arterials that carry both local and through traffic through the city. They could be designated limited access streets. Local Signature Streets are both sides of:

- 700N from State 149 to State 49
- Vale Park Road from State 130 to State 49
- Calumet from Burlington Beach Road to 700N
- Burlington Beach Road from Calumet to east city limits
- State Route 2 from 150W to Morthland (US 30)
- Campbell St. from Lincolnway to 700N
- Silhavy Road from Morthland (US 30) to Calumet Avenue

### **3. Regional Signature Streets**

Regional Signature Streets are local state and federal highways that are used by local residents and visitors and people passing through the City and County. Regional Signature Streets are both sides of:

- Bypass 49 from Division to 700N
- State 149 from US 30 to 700N
- US 30/Morthland Drive from Joliet to Porter/LaPorte County

## **Section 2935 General Design Standards for All Signature Streets**

### **1. Right-of-Way Treatment:**

- Maintain a 120-foot right-of-way distance for City/State Arterial corridors that are part of the Bike/Pedestrian Plan to accommodate sufficient landscape treatments and buffers for pedestrian/bike pathways.
- Create a pedestrian/bike pathway if part of city bike plan (see Article X for bike plan).
- Provide extensive landscape treatment and sidewalks to create an attractive green corridor, screen service and parking areas, and replace natural features that would be lost to new construction.

- Eliminate the need for over-head wires wherever possible by placing power lines and cables underground.
- If a median exists, or a median is required for traffic control, provide extensive landscaping as a continuation of the right-of-way treatment.

## 2. **Intersection Treatment:**

- Limit new intersections to occur at a minimum of 1,000 feet apart, with an optimum minimum distance of 1,320 feet.
- Special design emphasis at intersections that include decorative paving and lighting, ornamental trees and shrubs, perennials and groundcover (see Figure 9 and 9.5 for examples of plantings and pavement enhancements at intersections).
- Provide appropriate viewing angles from intersections by limiting vegetation taller than three feet in height within a 45-degree angle from stop line. Allow a larger viewing angle at two-way stop intersections.
- Minimize curb cuts along a corridor by providing frontage roads in commercial/industrial areas or additional drives on secondary streets and/or alleys, and shared drives in residential areas. This would utilize connecting drives between commercial, office, and industrial land uses. Wherever possible limit curb-cuts to a width of 36-feet.
- Maintain a minimum distance of 300 feet between new drives

3. **Parkway Plantings.** Plantings are intended to provide a linear, natural, visual enhancement that unify the corridor character and add a greenbelt. It is ideal to use native and hardy plant materials with ornamental and decorative supplements at intersections. All landscaping and plantings shall be maintained by the property owner. The following is a list of recommended plant materials that would be optimum for corridor plantings:

Deciduous Trees: Burr Oak, Hackberry, Honeylocust, Little Leaf Linden, Red Maple, Red Oak, River Birch, White Ash, White Oak

Evergreen Trees: Spruce, White Fir, White Pine

Ornamental Trees: Crabapple, Eastern Redbud, Hawthorn, Ornamental Pear, Serviceberry,

Shrubs: Burning Bush, Cotoneaster, Forsythia, Fragrant Sumac, Lilac, Red Twig Dogwood, Spirea, Viburnum, Witchhazel

Perennials and Groundcover: Daylily, Daffodil, Hosta, Ivy, Purple Leaf Wintercreeper, Russian Sage, Salvia, Sedum, Tulips, Vinca

Native Prairie Plants: Aster, Black-Eyed Susan, Butterfly-weed, Columbine, Coreopsis, Daisy, Goldenrod, Leadplant, Phlox, Prairie Clover, Prairie Dropseed, Purple Coneflower, Sedge, Spiderwort, Sunflower

4. **Land Uses, Setbacks, and Landscape Requirements.** These standards are intended to create a unified corridor appearance, provide adequate landscape material, and supply screening where appropriate (see Figures 9 and 9.5). The building setbacks will achieve a sense of scale and frame the corridor in a visually appealing manner. Wherever possible, parking areas should be placed between or behind buildings, and be screened with landscape material.

A. State Route 49

Excluded uses in the State Route 49 overlay area include billboards, portable flashing lights or inflated temporary signage; mobile home park; farm seasonal worker housing; fraternity, sorority or student dormitory; bottle gas storage and/or distribution; junk yard; liquid fertilizer storage and/or distribution; manufacturing and/or storage of explosives; mineral extraction, borrow pit, topsoil removal; petroleum tank farm; dump and/or garbage disposal plant sewage disposal plant; auction sales yard and/or sales barn for livestock; auto service station; clothing services; food sales and services; vehicle sales; boat sales; farm equipment sales; and shopping center.

Residential development shall maintain a 90-foot setback of all buildings from the State Route 49 right-of-way. Within that 90 feet, 30 feet shall be maintained by the property owner as a greenbelt with landscaping and/or plantings. No parking is allowed in the 30-foot greenbelt.

Lot size: minimum lot size for commercial and industrial uses is two acres.

Lot width: minimum lot width for commercial and industrial uses is 160 feet.

Front yard setback from the State Route 49 right-of-way is not less than ninety (90) feet for all commercial and industrial uses of 36 feet in height. For commercial and industrial use of 37-40 feet in height, a front yard setback of 100 feet is required. For commercial and industrial uses of greater than 40 feet in height, a front yard setback of 125 feet is required. Within the front yard of all commercial and industrial uses, a 30-foot greenbelt of landscaping and/or plantings shall be created and maintained by the property owner.

No parking shall be allowed in the front yard except after review of the parking plan layout and points of access by the site review committee. Staff decisions can be appealed to the Plan Commission. This front yard shall be measured from the front yard right-of-way line and include a 30-foot greenbelt on which parking is prohibited.

Side yard setbacks shall be a minimum of 15 feet in depth along both interior side lot lines for commercial and industrial use.

Rear yard shall be a minimum of 30 feet in depth for commercial and industrial use.

Maximum lot coverage for all commercial and industrial uses is 75%. A minimum of 25% of every lot shall be reserved for green space with appropriate landscaping (Figure 9 or 9.5). All landscaping shall be maintained by the property owners.

Height of buildings shall not exceed four stories or fifty feet unless the building is sprinkled for fire protection, and subject to the Porter County Airport height restrictions.

No outdoor storage, enclosed storage or refuse (whether or not in containers) or display of merchandise shall be permitted on any lot. All refuse shall be contained completely within the principal or accessory buildings.

Loading berth requirements shall be as specified in the underlay zoning district except that any loading or unloading berth or bay, which faces or is visible from State Route 49 shall be screened by landscaping or other screening. All landscaping or other screening shall be maintained by the property owner.

Access roads shall be required of all commercial and industrial zoned parcels with a front yard bordering State Route 49. Access roads may be built in the setback or rear yard and shall be built to City of Valparaiso Road standards.

The only signs allowed in the State Route 49 overlay area are ground signs that are monument type signs with a height of not more than six feet and width not more than eight feet. Mounding and other innovative treatments are especially encouraged in this area. Pole-mounted signs are not allowed.

Design Review – in addition the hereunto stated requirements for developing any parcel of land in the State Route 49 overlay area, all plans shall be reviewed and approved for design, landscaping, and architectural detail and compatibility. No design plans that have been approved by the City Site Review Committee may be altered, eliminate or sacrificed without first obtain further Site Review Committee approval.

Specific design standard for the State 49 overlay area include a greenbelt of not less than thirty (30) feet along State Route 49 right-of-way that is suitable landscaping (Figure 9) and shall not otherwise be occupied except for steps, walks, terraces, driveway, access roads, and lighting standards.

#### B. US 30 (Morthland Drive)

US 30 is also known as Morthland Drive. It is a state highway with limited access and an important means of transportation in Porter County, particularly east-west traffic and access to other major interstates and highways. These specific developmental standards are designed to preserve and enhance the aesthetic qualities of the properties bordering this highway, and to promote efficient land use.

Excluded Uses along the US 30 overlay include billboards, portable flashing lights or inflated temporary signage; mobile home park; farm seasonal worker housing; fraternity, sorority or student dormitory; bottle gas storage and/or distribution; junk yard; liquid fertilizer storage and/or distribution; manufacturing and/or storage of explosives; mineral extraction, borrow pit, topsoil removal; petroleum tank farm; dump and/or garbage disposal plant sewage disposal plant; auction sales yard and/or sales barn for livestock.

Residential development shall maintain a 65-foot setback of all buildings from the US 30 right-of-way. Within that 65 feet, 15 feet shall be maintained by the property owner as a greenbelt with landscaping and/or plantings. No parking is allowed in the 15-foot greenbelt.

Front yard setback from the US 30 right-of-way is not less than ninety (65) feet for all commercial and industrial uses of 36 feet in height. For commercial and industrial use greater than 36 feet in height, a front yard setback of 75 feet is required. Within the front yard of all commercial and industrial uses, a 15-foot greenbelt of landscaping and/or plantings shall be created and maintained by the property owner.

Lot size: minimum lot size for commercial and industrial uses is one-half acre, excluding any right-of-way dedication.

Lot width: minimum lot width for commercial and industrial uses is 100 feet.

No parking shall be allowed in the front yard except after review of the parking plan layout and points of access by the City Planning staff. Staff decisions can be appealed to the Plan Commission This front yard shall be measured from the front yard right-of-way line and includes the 15-foot greenbelt on which parking is prohibited.

Side yard setbacks shall be a minimum of 10 feet in depth along both interior side lot lines for commercial and industrial use. A side yard that abuts a residentially zoned parcel shall be a minimum of 30 feet.

Rear yard shall be a minimum of 15 feet in depth unless abutting a residentially zoned parcel, where it shall be 30 feet.

Maximum lot coverage for all commercial and industrial uses is 75%. A minimum of 25% of every lot shall be reserved for green space with appropriate landscaping (Figure 9 or 9.5).

Height of buildings shall not exceed three stories or thirty-five feet unless sprinkled for fire protection, and subject to the Porter County Airport height restrictions.

No outdoor storage, enclosed storage or refuse (whether or not in containers) or display of merchandize shall be permitted on any lot. All refuse shall be contained completely within the principle or accessory buildings.

Loading berth requirements shall be as specified in the underlay zoning district except that any loading or unloading berth or bay, which faces or is visible from US 30 shall be screened by landscaping or other screening.

Access roads shall be required of all commercial and industrial zoned parcels with a front yard bordering US 30. Access roads may be built in the setback or rear yard and shall be built to City of Valparaiso Road standards.

Crossovers should be eliminated whenever density and/or traffic counts warrant the elimination.

Design Review – all plans shall be reviewed and approved for design, landscaping, and architectural detail and compatibility. No design plans that have been approved by the City Site Review Committee maybe altered, eliminates or sacrificed without first obtain further Site Review Committee approval.

Specific design standard for the US 30 overlay area include a greenbelt of not less than fifteen (15) feet along State US 30 right-of-way that is suitable landscaping (Figure 9) and shall not otherwise be occupied except for steps, walks, terraces, driveway, access roads, and lighting standards.

The following chart displays standards on all other signature streets:

| Land Use              | Minimum Building Setback | Minimum Landscape Yard along R.O.W | Landscape requirements per 100 linear feet frontage *                                                                                                                                     | Other requirements                                                                                                                                             |
|-----------------------|--------------------------|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Commercial            | 30'                      | 30'                                | 2 Shade trees, 1 Evergreen tree, 2 ornamental trees, 3 large shrubs, 6 small shrubs<br><br>All other area must be covered with sod, perennials, or groundcover.                           | Screen all service areas with dense planting of shrubs and evergreen trees.<br><br>Screen all parking areas with 5' buffer of shrubs, 3' height maximum.       |
| Large Commercial      | 30'                      | 30'                                | 2 shade trees, 1 evergreen tree, 2 ornamental trees, 3 large shrubs, 6 small shrubs per linear foot of building frontage                                                                  | Screen all parking areas with 5' buffer of shrubs, 3' height maximum.                                                                                          |
| Industrial            | 60'                      | 30'                                | 4 Shade trees, 3 Evergreen tree, 4 ornamental trees, 6 large shrubs, 10 small shrubs<br><br>All other area must be covered with sod, perennials, native prairie plantings, or groundcover | Screen all service areas with dense planting of shrubs and evergreen trees.<br><br>Screen all parking areas with 5' buffer of shrubs, 3' height maximum.       |
| Office                | 30' min.<br>50' max.     | equal to building setback          | 2 Shade trees, 1 Evergreen tree, 2 ornamental trees, 3 large shrubs, 6 small shrubs<br><br>All other area must be covered with sod, perennials, native prairie plantings, or groundcover  | Screen all service areas with dense planting of shrubs and evergreen trees.<br><br>Place all parking areas behind buildings. No parking within landscape yard. |
| Multifamily           | 40' min.<br>106' max.    | 30'                                | 2 Shade trees, 3 Evergreen tree, 3 ornamental trees, 3 large shrubs, 6 small shrubs                                                                                                       | Provide 10' foundation plantings along buildings consisting of shrubs, perennials, and ground-cover                                                            |
| Single Family         | 40'                      | 30'                                | 2 Shade trees, 3 Evergreen tree, 2 ornamental trees, 3 large shrubs, 6 small shrubs                                                                                                       |                                                                                                                                                                |
| Open Space/<br>Public | 40'                      | 40'                                | 3 Shade trees, 2 Evergreen tree, 3 ornamental trees, 3 large shrubs, 6 small shrubs                                                                                                       | All other area must be covered with sod, perennials, native prairie plantings, or groundcover                                                                  |

\* Where overhead wires exist directly over tree planting area, flowering ornamental trees shall be substituted for required shade trees at an equal number. Trees along corridors shall be planted at a spacing conducive to creating a continuous canopy over the street upon tree maturity. Additional shrub massing and earth berming is required to buffer views of parking lots from corridors.

**5. Utilities.** Eliminate the need for over-head wires wherever possible by placing power lines and cables underground. On developed corridors, relocate power lines and cables. On corridors with new development all wiring shall be underground from existing utilities to the connections.

6. **Signs.** Any streetscape can be improved with the application of sound sign controls, and can do more for the appearance of a community than any other single action. Signs along all signature corridors will be ground signs of monument type with a maximum height of 6 feet. Size and scale of building will determine width. Sign materials need to be compatible with exterior building materials.

7. **Lighting.** On private property, low cut off lighting fixtures whether in a canopy or on a pole provide safe and efficient lighting without glare for the passerby or motorist. It also focuses the light distribution on the property and not adjacent parcels or roadways. These are standard fixtures, which can be used in lieu of exposed lamp and lens fixtures, which will significantly change the image of the development along these key corridors (see Attachment C). On private property or public right-of-way:

- A. New pole lighting in the downtown shall match existing downtown fixtures
- B. New pole lighting on other signature corridors shall match those used on South Washington Street, with fluted pole, and with supplemental lights at intersections as required.

#### **Section 2940                      Definition and Location of gateways**

The structure of the gateway plan is directly related to the various landscapes or streetscapes of the City of Valparaiso. These landscape entities include the traditional downtown, the various contemporary commercial-strips and their associated suburban subdivisions, and the rural countryside. They help define the City of Valparaiso character and are used as the framework in the elaboration of the gateway plan. Gateway features such as stone or concrete walls, special identification signage, unique landscape materials, artistic elements, and decorative lighting should be encouraged in all gateway designs (see Attachments A and B).

The treatment of the gateways as well as the use of plantings is dictated by their location and scale. The scale of the gateways is an important consideration. Public perception of community' character is based either on what can be seen while driving or walking. Three levels of gateways are proposed regional, City, and Downtown.

At the regional level, associated with the rural countryside, the gateways might be defined by extensive right-of-way/median/cloverleaf landscaping at intersections. The streetscape of the corridors located between the "regional" gateways is automobile-oriented.

The City Gateways define the entrance into the City from the rural or regional areas (Attachment A). In the downtown, the gateways might be defined by horizontal structural elements (Attachment B). The streetscape of the corridors located between the "local" gateways is pedestrian-oriented. Locations of the proposed gateways (see Attachment 8) are as follows:

##### **Regional Scale:**

- Route 49/Burlington Beach Road
- Route 49/Vale Park Road
- Route 49/State Road 2
- Route 49/US Highway 30
- US Highway 30/Hayes-Leonard

- State Road 2/100W

City Gateways (semi-regional; see Attachment A):

- Calumet Avenue/Burlington Beach Road
- Calumet Avenue/Vale Park Road
- Calumet Avenue/Canadian National Railway
- LaPorte Avenue-Lincolnway/Sturdy Road
- Morthland Drive/Sturdy Road
- State Road 130/Joliet Road
- US Highway 30/State Road 2/Washington Street

Downtown Gateways (local; see Attachment B)):

- Lincolnway/Napoleon Avenue
- Lincolnway/Morgan Boulevard
- Washington Street/Monroe Street

### **Section 2950                      Permit Procedures and Fees**

Request for any development or redevelopment on a signature corridor shall require a site review in accordance with *Article XXXV* of the zoning ordinance prior to making application for a building permit. A detailed site plan of the parcel or lot is required for site review.

Applications shall be accompanied by the required fee and shall be made on a form provided by the Building Commissioner. If the development or redevelopment requires annexation and/or subdivision of land, the developer shall follow the City process for these approvals.

### **Section 2960                      Notice and fines of violations**

When written notice of violation of any of the provisions of this chapter has been served on the property, owner, agent, occupant, contractor, or builder, such violation shall be discontinued. Unless the Building Commissioner specifies a particular time by which the violation must be removed, it shall be assumed that each day the violation continues constitutes a separate violation.

In addition to any and all other remedies set forth in this Ordinance for a violation thereof, the Building Commissioner may, for any violation of this Ordinance, levy a fine against the violator of up to \$50.00. The Building Commissioner shall notify the violator(s) in writing of such fine. The Building Commissioner may, in the event that the violator maintains a bond or deposit with the City for such violations, charge the fine against such bond or deposit, and notify the violator of his intent to take such action. If the violator does not protest the notice of violation, in writing, within thirty (30) days, the City may charge the fine against the bond or deposit without further notice. If no bond or deposit is on file, the violator shall pay the levied fine through the Local Ordinance Violations Bureau. The Building Commissioner may levy a fine for each day the violation is continued.

### **Section 2970                      Appeals**

All appeals to this ordinance shall be taken to the Board of Zoning Appeals.

**Section 2980                      Severability**

If any provisions of this ordinance or application thereof to any person or circumstance is held invalid, this invalidity shall not affect any other provisions of this ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are declared to be severable.

**ATTACHMENTS**

Figure 8 – Map of Signature Streets

Figure 9 – Prototype landscaping for median/divided Signature Streets

Figure 9.5 – Prototype landscaping for nondivided Signature Streets

Attachment A – City Gateway prototype

Attachment B – Downtown Gateway prototype

Attachment C – Ornate lighting standards

Part IV  
Article XXX

**NEIGHBORHOOD CONSERVATION OVERLAY ORDINANCE**

**Section 3000**

**PURPOSE.** The Neighborhood Conservation Overlay Ordinance (NCOO) is intended to promote health, safety, economic, cultural and general welfare of the public by encouraging the conservation and enhancement of the residential environment. The purposes of the NCOO are:

- a. To identify physical, social and economic resources within the environment that are worthy of conservation;
- b. To maintain neighborhood character and integrity by focusing special attention on the maintenance of the physical environment; the enhancement of physical, social and economic resources and the accommodation of desirable change;
- c. To prevent economic obsolescence and to promote reinvestment by fostering stable property values;
- d. To promote the efficient use of land including the encouragement of compatible infill development on vacant and passed-over parcels;
- e. To encourage and to support rehabilitation of the physical environment and programs for the conservation and revitalization of areas; and
- f. To foster the harmonious, orderly and efficient growth, development and redevelopment of the City of Valparaiso.

**Section 3001**

**DEFINITIONS.** As used in this section:

- A. *Commission* shall mean the Valparaiso Plan Commission.
- B. *Conservation* shall mean the sustained use and appearance of a structure or area essentially in its existing state.
- C. *Conversion* shall mean the restrained alteration of a structure to accommodate uses for which the resource was not originally constructed, but which maintain the structure's general character.
- D. *Demolition* shall mean the act of partial or total destruction or tearing down of a structure so that it becomes constructed into a larger structure, thus losing its original distinguishing physical characteristics.
- E. *Designation Ordinance* shall mean the official zoning document which the City Council enacts specifying a certain area as a Conservation District.
- F. *Infill* development shall mean new construction or the moving in of existing structures on vacant lots *or* to replace blighted or thoroughly deteriorated structures.
- G. *Maintenance* shall mean conformance of a *structure* to the code under which it was constructed or to another applicable maintenance code.
- H. *Neighborhood conservation* shall mean public and private efforts to maintain and enhance older areas through stabilization, rehabilitation, revitalization, conversion, infill development and/or redevelopment.
- I. *Rehabilitation* shall mean the process of returning a structure to a state of efficiency or soundness by repair or alteration designed to encourage its continued use but without noticeable changing the exterior appearance of the structure.

- J. *Renovation* shall mean the process of altering or repairing a structure and its facilities so it conforms to minimum standards of sanitation, fire and life safety.
- K. *Stabilization* shall mean the process of applying measures designated to halt deterioration and to establish the structural stability of an unsafe or deteriorated resource while maintaining the essential form as it presently exists without noticeably changing the exterior appearance of the resource.
- L. *Structure* shall mean anything constructed or erected, the use of which requires permanent location on the ground or which is attached to something having a permanent location on the ground. This includes, but is not limited to, buildings, fences, walls, driveways, sidewalks and parking areas.

## **Section 3002**

**REQUIREMENTS AND STANDARDS.** The requirements and standards for the NCOO to apply are as follows:

### *Standard Procedures.*

- A. The City of Valparaiso may designate areas, tracts, or sites with a minimum of nine square blocks for inclusion within the NCOO district in the manner prescribed for the designation of other overlay districts as allowed in IC 36-7-4-1-1, and IC 36-7-4-405 (2)(B)
- B. The initiation of a proposed designation may be made by:
  - 1. Application of property owners of the area, tract or site to be designated provided that the application includes:
    - a.) A petition that includes signatures of the property owners of at least two-thirds of all the property owners within that proposed district's boundary (allocating only two signatures per parcel); and
    - b.) A statement documenting the conditions justifying a Neighborhood Conservation designation and setting forth the purposes and intent of such designation; or
  - 2. The City of Valparaiso Planning Commission, the City Council or the Site Review Committee
- C. A pre-designation shall be adopted only after a public hearing is held by the Plan Commission.
- D. The Commission may, after the adoption of such a pre-designation, approve the preparation of a Neighborhood Conservation Plan (NCP) by the petitioners. The resulting plan shall be signed by two-thirds, of all property owners (allocating only two signatures per parcel), and shall be sufficiently complete to indicate objectives set forth in Section I of this Ordinance and its relationship to appropriate land uses, preservation of historic sites and districts, improved traffic, public transportation, public utilities, and other public improvements and proposes land uses in the NCP area and shall include without being limited to:
  - 1.) The boundaries of the NCP district;
  - 2.) A land use plan showing proposed uses of the area;
  - 3.) A statement of the proposed changes, if any, in zoning ordinances or maps;
  - 4.) A statement of needs for neighborhood conservation in the area and the relationship of the plan to neighborhood conservation and the prevention of neighborhood blight and decay;
  - 5.) Density and/or intensity of land use such as minimum lot size, maximum floor area,

- floor area ratios, number of dwellings per acre, minimum lot area per dwelling, maximum lot coverage and height controls;
- 6.) Accessory uses and yard utilization regulations such as landscaping, fencing, carports, access regulations, sidewalks, home occupations, animal regulations, signs and other related provisions; and
  - 7.) Parking regulations, such as number of required spaces per type of use, the location and design of parking areas, restrictions concerning recreational vehicles, trailers, boats, large trucks and other related provisions.
- E. The plan for the NCP area shall conform with the general plan for the development of the community as a whole. The Commission shall, upon adoption of the plan after public hearing, submit its recommendations with respect to the proposed NCP and recommendation for Final Designation to the City council for its consideration with its recommendations for *zoning* and other regulatory ordinances.
- F. A NCP may be modified at any time by the Commission. Minor modifications can be approved by the Plan Commission without public hearing. Major changes will require a full public hearing, recommendation of approval by the Plan Commission, and final approval by the City Council.

### **Section 3003**

EXEMPTIONS. The Valparaiso City Council, may by ordinance being subject to neighborhood consensus, exempt any specific district(s) from the provisions of this ordinance provided that:

- A. The ordinance enacting the exemption shall also contain a Neighborhood Conservation Overlay Ordinance for the district(s) being exempt, and may include amendments to the Zoning Ordinance with revised use permit criteria; and
- B. All Neighborhood Conservation Overlay Ordinance incorporate the principles set forth in the 1991 Comprehensive City Plan and has been prepared with the participation of neighborhood residents and other concerned citizens.

### **Section 3004**

RELATIONSHIP TO OTHER ORDINANCES. It is the purpose of this ordinance to implement the specific policies of the Comprehensive City Plan and not to repeal the existing Zoning Ordinance, except insofar as its provisions are in conflict with this ordinance. Where there is no conflict, the Zoning Ordinance shall continue to apply. Wherever the existing Zoning Ordinance or other ordinances are in conflict with this ordinance, this ordinance shall apply.

### **Section 3005**

SEVERABILITY. If any provisions of this ordinance or application thereof to any person or circumstance is held invalid, this invalidity shall not affect any other provisions of this ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are declared to be severable.

Part IV  
Article XXXI

**TREE AND LANDSCAPING ORDINANCE**

**Section 3100            Purpose and Goals**

It is the purpose and intent of this Article to:

- A. Promote and enhance the beauty of the City of Valparaiso through tree preservation and landscaping;
- B. Insofar as practical, safeguard the ecological environment of the City of Valparaiso by dissuading the unnecessary clearing and disturbing of land and existing natural vegetation;
- C. Promote planting and maintenance of trees and shrubbery on public and private land.

**Section 3105            Authority and Power**

The chapter hereby creates a Tree Advisory Board, under the jurisdiction of the Board of Public Works and Safety of the City of Valparaiso, which shall consist of five (5) members. Each member shall be a resident of the City of Valparaiso and shall be appointed by the Mayor as provide herein. Members of the Tree Advisory Board shall serve without compensation.

**Section 3110            Terms of Office**

Two members of the Tree Advisory Board shall have an initial term of one (1) year; two members shall have an initial term of two (2) years and one member shall have a term of three (3) years. Subsequent thereto the term for members of the Commission shall be three years. For purposes of appointment terms shall begin on January 1<sup>st</sup> and end on December 31<sup>st</sup> at the end of the term. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

**Section 3120            Definitions**

- A. Caliper: a caliper is the diameter measurement of the trunk taken 6 inches above ground level
- B. Diameter Breast Height (DBH): the diameter of a tree in inches 4 1/2 feet above the ground.
- C. Exempt Tree: any tree on the Exempt List as maintained and provided by the City of Valparaiso Parks and Recreation Department (Exhibit A).
- D. Nuisance Tree: a diseased or weakened tree with an accelerated potential to cause physical human harm or to cause property damage.
- E. Person: a person shall be defined as any individual, corporation, business or any other entity, whether private or governmental, including the City of Valparaiso.
- F. Priority Tree: any tree on the Priority Tree list as maintained and provided by the City of Valparaiso Parks and Recreation Department (Exhibit B)
- G. Public Property: all property owned by the City of Valparaiso or any agency or department thereof and all property included in the Public Way as defined by the Valparaiso Zoning Ordinance.
- H. Replacement Tree: a replacement tree shall be 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.

- I. Tree: a woody, perennial plant, ordinarily with one main stem or trunk, which develops many branches, and which ordinarily grows to a height of ten feet or more with a diameter in excess of 6 inches at a height of five feet.
- J. Tree Canopy: shall mean the area covered by tree stems, branches and leaves as viewed overhead. Canopy shall be quantified in square foot coverage.
- K. Topping: the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

### **Section 3125                      Licensing**

It shall be unlawful for any contractor to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vines within the City without first producing evidence of certification/license before the City. (Any person who requires a license pursuant to this ordinance shall be considered a Contractor, pursuant to the Contractor's Ordinance and shall pay the appropriate fee provided by ordinance.)

### **Section 3130                      Insurance**

Before any license shall be issued, each applicant shall first file evidence of possession of worker compensation and liability insurance in the minimum amounts of \$1,000,000 for bodily injury or death and \$100,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

### **Section 3135                      Public Property Tree Removal and Planting**

- A. No person shall remove a tree from public property nor plant a tree on public property except by the consent of the City of Valparaiso Street Superintendent or designated agent or agents.
- B. The City of Valparaiso Street Superintendent or designated agent or agents may remove a tree from improved and accepted public way. As a condition of removal for non-exempt trees, the owner must agree to replacement provision in Section 3140.
- C. Tree removal as a result of a City project within public property shall require tree replacement in accordance with Section 3140.

### **Section 3140                      Tree Removal, Replacement, and Maintenance**

- A. Tree Species – The City Tree commission shall develop and maintain a list of desirable trees for planting along streets in three size classes: small, medium, and large.
- B. Spacing - The spacing of street trees will be in accordance with the three species size classes listed in this ordinance, and no trees may be planted closer together than the following: small trees , 20 feet; medium trees, 30 feet; large trees, 40 feet.
- C. Utilities – No street trees other than those species listed here in as small trees may be planted under or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.
- D. Topping – It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this ordinance at the determination of the City of Valparaiso Street Superintendent or designated agent or agents or the City Tree Commission.

- E. The Tree Advisory Board shall have the authority to develop rules and regulations relating to the planting of trees with regard to spacing for curb and gutter and sidewalk.
- F. This section shall not apply to:
  - 1. trees with a DBH of less than 10-inches;
  - 2. exempt trees;
  - 3. improved properties, unless specifically expressed in this Article; and
  - 4. unimproved properties of less than one-half (½) acre, unless specifically expressed in this Article.
- G. Tree removal in excess of (G)(1) or (G)(2) below shall require a site plan review or must be part of an approved landscape plan, and furthermore shall be subject to tree replacement requirements in Section 3125.
  - 1. A person may one time only remove on an unimproved lot or parcel up to three (3) non-exempt trees within a one calendar year period; or
  - 2. If the parcel or lot contains more than one acre of tree canopy, a person may one time only remove up to three (3) non-exempt trees per acre within the tree canopy within a one calendar year period.
- H. A person must remove within a reasonable period of time, and need not replace, a tree if it cannot be saved and if any of the following conditions are present:
  - 1. The tree causes a safety hazard to pedestrians or vehicular traffic;
  - 2. The tree causes a safety hazard to a building;
  - 3. The tree is diseased or weakened.
- I. Tree Removal Necessitated by Greater Standards  
In the event the City requires the construction of developmental improvements greater than those required by the standards (such as wider street pavements), and said greater improvements necessitate that additional trees be removed from the premises, the developer shall be liable for the replacement of only those trees required to be removed because of the normal standards. The City shall be liable for the trees removed because of the greater standards.
- J. Tree replacement shall be based on the below ratio for every non-exempt tree of 10" DBH or greater that is removed in excess of Section 3140 (G) or as required in Section 3115 (B).
  - 1:1 tree replacement to removal for trees between 10" DBH and less than 16" DBH
  - 2:1 tree replacement to removal for trees between 16" DBH and less than 24" DBH
  - 3:1 tree replacement to removal for trees between 24" DBH and less than 30" DBH
  - 4:1 tree replacement to removal for trees 30" DBH and over
- K. A person shall, at their option:
  - a. plant replacement trees on the site or subsequent phase; or
  - b. if the person has another approved project within the City, plant replacement trees on said site with the consent of the City; or
  - c. pay to the City \$200.00 per replacement tree to be deposited in the Tree Fund, as set forth in Section 3140.
- L. Not with standing (2) above, the following maximum monetary limitations shall apply to each person:
  - a. for a developer, \$10,000;
  - b. for a building contractor, 1% of the estimated cost of construction as indicated on the application for Building Permit;

- c. for the City, \$10,000 per project.

For the purpose of this calculation each tree planted under (2) above shall be assigned a value of \$200.

## **Section 3145                      Landscape Plans**

### **A. Applicability and Approval Process**

1. The requirements of this section shall apply to:
  - a. projects under Section 3145;
  - b. projects requiring subdivision approval; or
  - c. projects requiring planned unit development approval.
2. Landscape plans shall be submitted to the Site Review Committee and shall be required for all such projects under Section 3145 unless specifically expressed in this Article.
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 Valparaiso Park Department horticulturist or designated agent. 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 Valparaiso Department of Parks and Recreation.

### **B. Contents of Landscape Plan**

1. Landscape plans shall be drawn to scale of not less than 1 inch=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, right-of-ways, 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.
3. Residential subdivisions and Planned Unit Developments shall be required to show for (2)(d) and (2)(g) above trees and plant material within public property, common areas, open space and or recreation areas.
4. The Landscape plan shall contain a summary of the covenants and restrictions that pertain to this Article.
5. The Landscape plan shall contain a statement of the methods by which the applicant will satisfy the requirements of this Article throughout site (re)development.
6. 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.

7. Landscape plans shall specify the planned impact of proposed improvements and development (overhead lines, roadways, berms, parking areas, etc.) upon the property.
- C. Selection 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 Valparaiso 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. Evergreens should be incorporated into the landscape treatment of a site, particularly in those areas where parking lots are otherwise required by law to be screened.
- D. Special requirements
1. Residential Development:
    - a. No "Inspection for Use and Occupancy" shall be finally approved unless the residential subdivision lot for single family or duplex uses, as finally developed, contains one non-exempt tree of at least 2-inch caliper for every 2,000 square foot minimum lot required for said use in the underlay zoning district or is a requirement of property owner's covenants and restrictions. Fractions shall be rounded down to the whole tree amount.
    - b. Multiple family buildings not covered in (1)(a) above shall have at least one fifth 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. Any plantings in the interior of a parking lot shall count toward the one-fifth requirement.
  2. Commercial and Industrial Development:

In commercial and industrial zones only, for all projects involving:

    - the construction of a new building or buildings; or
    - the expansion of any existing building of 10,000 square feet or more; or
    - the expansion of any existing building of fewer than 10,000 square feet if such expansion increases the square footage of such building by 30% or more, shall have:
      - a. at least 50% of the minimum green space plainly visible from at least one public vehicular entryway to the site from a public roadway; and
      - b. at least one fifth 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. Any plantings in the interior of a parking lot shall count toward the one fifth requirement; and
      - c. at least 50% of the minimum required plantings as set forth in (2)(b) above comprised of areas of plantings plainly visible from at least one public vehicular entryway to the site from a public roadway.
  3. On-site parking or Parking lot development:

Every project which includes an on-site parking lot or is a parking lot development providing 50 or more parking spaces shall:

- a. have an area or areas in the interior of such lot of not less than 5% of the total parking lot area covered by plantings consisting of shade trees, evergreen trees, shrubbery and other ground plantings, but not including grass.
- b. provide a buffer strip in accordance with Section 475 and Section 750 (4) along each side of the parking lot which abut residential districts and improved public rights of way.

**E. Preservation of Trees**

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 one linear foot for every inch of DBH. No machinery, tools, chemicals, or temporary soil deposits may be permitted within this area.
  - b. 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.
  - c. Soil grading around preserved trees shall be avoided. A depth of no more than six inches of soil may be placed over tree roots within the protected area, nor shall soil be graded away.

**F. Variances**

Any variance from the requirements of this section may be requested from the Plan Commission for sites employing innovative landscaping treatments. Such 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.

**Section 3150                      Tree Fund Administration**

- A. There is hereby established a Tree Fund, dedicated to the replacement and preservation of trees within the City of Valparaiso, to be administered by the Department of Parks and Recreation and used primarily for public spaces.
- B. This Fund shall be funded by payments made pursuant to Section 3150 and such other monies as may be allocated by the City or donated by any other source.
- C. The owner of private property, hereafter referred to as the applicant, may be eligible for reimbursement for planting trees pursuant to the following rules and procedures.
  1. To be eligible for reimbursement the tree shall be:
    - a. visible from a public way;
    - b. 2" caliper or greater; and
    - c. a species approved by the Valparaiso Parks Department.
  2. Prior to purchasing a tree, the applicant shall complete a form as supplied by the Department of Parks and Recreation requesting reimbursement;

3. Approval or denial of an application shall be based on compliance with requirements in (C)(1) of this section and on sufficient funds within the Tree Fund to remit reimbursement;
4. After the tree has been planted, the Department of Parks and Recreation shall verify compliance with requirements in (C)(1) of this section and remit to the applicant, 50% of the cost of such tree(s), but not to exceed \$100 per applicant per year.

#### **Section 3155                      Enforcement**

The provisions of this Article shall be enforced in accordance with Section 1235 of the Valparaiso Zoning Ordinance.

#### **Section 3160                      Adjacent Landowner Responsibility**

No person shall plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the Tree Advisory Board. The person receiving the permit shall abide by standards set forth in this ordinance.

#### **Section 3165                      Tree Protection**

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the Tree Advisory Board shall notify the Board of Works.

#### **Section 3170                      Permits**

No person except city officials, his/her agent, or a contractor hired by the City may perform any acts pertaining to this Ordinance without first obtaining a permit from the Street and Sanitation Department.

#### **Section 3175                      Enforcement**

The Tree Advisory Board shall have the power to promulgate and enforce rules, regulations and specifications concerning trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines hedges and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the City.

#### **Section 3180                      Penalties and Claims**

*Violations* – any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to provision of the ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$500 for each separate offense. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on City-owned property is caused, the cost of the repair or replacement, or the appraised dollar value of such tree, shrub, or other plant shall be borne by the party in violation.

*Assessment of Claim* – In the event that a nuisance is not abated by the date specified in the notice, the Board of Works is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was

located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

**Exhibit A: Exempt Tree List**

|                                                    |                                   |
|----------------------------------------------------|-----------------------------------|
| Ailanthus Altissima (also known as Tree of Heaven) | <i>Ailanthus altissima</i>        |
| Elm <i>various</i>                                 | <i>Ulmus sp.</i>                  |
| Black Locust                                       | <i>Robinia pseudoacacia</i>       |
| Black Pine (also known as 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 (also known as Hedgeapple)            | <i>Maclura pomifera</i>           |
| Silver Maple                                       | <i>Acer saccharinum</i>           |
| Sumac                                              | <i>Rhus typhina</i>               |
| Weeping Willow                                     | <i>Salix alba</i>                 |
| Purple Plum                                        | <i>Prunus cerasifera</i>          |
| Sand Cherry                                        | <i>Prumus x cistena</i>           |
| Nuisance Tree as defined within the ordinance      |                                   |

**Exhibit B: Priority Tree List**

|                       |                                |
|-----------------------|--------------------------------|
| Red Maple             | <i>Acer rubrum</i>             |
| Sugar Maple           | <i>Acer saccharum</i>          |
| Shagbark Hickory      | <i>Carya ovata</i>             |
| Hackberry             | <i>Celtis occidentalis</i>     |
| River Birch           | <i>Betula nigra</i>            |
| Beech <i>various</i>  | <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 tulipifera</i> |
| Ironwood              | <i>Ostrya virginiana</i>       |
| Spruce <i>various</i> | <i>Picea sp.</i>               |
| Eastern White Pine    | <i>Pinus strobus</i>           |
| Black Cherry          | <i>Prunus serotina</i>         |
| Oak <i>various</i>    | <i>Quercus sp.</i>             |
| White Fir             | <i>Abies concolor</i>          |

## PART IV

### ARTICLE XXXII

#### OP – OFFICE/PROFESSIONAL PARK ZONE ORDINANCE

Section 3200: PURPOSE: The purpose of this ordinance is to provide a zoning classification with uses and development standards for an office and/or professional park development. The major areas for this zoning could include land near the intersection of State 130 and 149, and along the State 49 bypass.

The regulations adopted in this ordinance are to safeguard the public health, safety, and general welfare of the community by developing standards that preserve open space and prime natural areas while encouraging the development of business and employment for the community. This ordinance also contains aesthetic standards for areas under development with this zoning.

This ordinance seeks to protect through regulating the lighting, signage, landscaping, open space preservation, screening, setbacks, and other development standards.

Section 3201: DEFINITIONS: The following definitions apply throughout this ordinance.

**Applicant** – any person or entity applying for subdivision plat, Planned Unit Development approval, rezoning approval, Special Exception, variance to use or developmental standards, and/or building permit.

**Building, height of:** the vertical distance measured from the lot ground level to the highest point of the roof for a flat roof, the deck line of a mansard roof, and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

**Building line/building setback line:** the line that establishes the minimum permitted distance on a lot between the front line of a building and the front line of a lot.

**Effective Date of Ordinance** – November 26, 2001.

**Front yard:** that side of a lot, including any corner lot, between the building and the right-of-way of a public or private street.

**IDEM** – Indiana Department of Environmental Management

**Landscaping** – plants, groundcover, grass, shrubs, trees, and aqueous surfaces

**Office/Professional Park** – an OP zoned area that can be subdivided and used as stated in the following sections of this ordinance.

Section 3210: DESIGNATION OF OFFICE/PROFESSIONAL PARK – a properly designated as Office/Professional Park is hereafter designated as an OP zone. An OP, when designated by

the City Council is considered a legal zoning, and shall effect the uses or developmental standards applicable to any land located within an OP. All new OP zoning requests will have to be filed with the Valparaiso Plan Commission for approval.

Section 3212: PROCESS TO DEVELOP AN OP-ZONED AREA – To zone a parcel of land OP, the property owner or representative, or the City shall file a petition and a proposed Development Plan (see Section 3520) with the Plan Commission. In addition to Section 3520, the OP Development Plan must include exterior façade materials. The petition and Development Plan will be placed on a Plan Commission agenda for a recommendation to the City Council. The City Council has the final vote on rezoning a parcel of land to OP.

Section 3220: USES ALLOWED IN AN OP ZONE – Allowable uses in OP zones include:

- 1) Offices and/or Professional offices for any technical, medical, service, financial, governmental, or educational uses.
- 2) Support services that are included as part of the office complex.
- 3) Conference centers
- 4) Research centers
- 5) Educational institutions; public or private
- 6) Light industrial uses that require assemblage only, and do not require any type of manufacturing.
- 7) Cultural centers such as museums, concert hall, art galleries (non-retail), etc.
- 8) OP Planned Unit Development that allows for a mix of uses

Section 3230: USES ALLOWED IN AN OP ZONING DISTRICT AS SPECIAL EXCEPTIONS.

Uses that are similar to an allowable use or a mix of uses that includes no more than 20% of other uses.

Section 3240: DEVELOPMENT STANDARDS FOR AN OP ZONING AREA:

1. Minimum Office Park shall not be less than 15 acres.
2. Minimum lot size: two acres  
Minimum lot width: 160 feet  
Setbacks: Front setback: 90 feet  
Side setbacks: total 30 feet; minimum of 15 ft. (if abuts a residential use, seven feet of buffer is required)  
Rear setback: 30 feet (if abuts a residential use, seven feet of buffer is required)
3. Maximum height of building; 50 feet (could be less if determined by FAA regulations)
4. Minimum open space: 40% of lot (can only cover 60% of lot)
5. No parking is allowed in the front setback. Minimum setback of all parking is 10 ft. from property line, and a minimum of 15 ft. from any principal building. Maximum parking: 1 space per 200 feet of useable interior space for all offices. Maximum parking for all other uses to be determined in the Development Plan.

6. Landscaping will be required as follows:
  - a. 40% of all front setback areas will be landscaped, and
  - b. Parking areas will include a minimum of 15% landscaped, and
  - c. A total of 40% of each lot will be preserved as open space that, at a minimum, is seeded with grass or sod. A minimum of five (new and/or existing) trees will be included in the total open space requirement.
  - d. Five trees per 100 foot of frontage
  - e. A 15 ft. area adjacent to all sides of a building shall be landscaped except for necessary access points.
7. All site mechanicals and dumpsters/waste receptacles shall be fully screened. All rooftop mechanicals shall have full height screen on all four sides. Dumpsters/waste receptacles and other mechanicals shall be fully screened with evergreen plant materials.
8. Lighting shall include low cut off lighting fixtures, whether in a canopy or on a pole, that provide safe and efficient lighting without glare for the passerby or motorist. The light distribution shall focus on the property and not adjacent parcels or roadways. These are standard fixtures, which can be used in lieu of exposed lamp and lens fixtures, which will significantly change the image of the development
9. Signage allowed includes concrete-based monument-type signs not to exceed six (6) feet in height. Size and scale of building will determine width. Sign materials need to be brick or concrete and compatible with exterior building materials. Signs on exterior walls of any building cannot exceed 5% of that wall. Internally lit signs are not allowed.
10. Exterior facades must be of brick, or EIFS, or architectural-pre-cast concrete, or curtain wall glass. A maximum of two facade materials may be used per building. Use and layout of material shall be continuous on all facades of the building.
11. Multiple buildings are permitted on one lot, however the space between principal buildings shall be 40 feet, provided that for each 3 feet on height over 45 feet, this space shall be increase one foot. Spacing between principal buildings and accessory buildings shall be 30 feet, provided that for each foot the accessory building exceed 25 in height, this space shall be increased one foot. Space between accessory buildings shall be a minimum of 20 feet.

Section 3250: VIOLATIONS – When written notice of violation of any of the provisions of this chapter has been served on the property, owner, agent, occupant, contractor, or builder, such violation shall be discontinued. Unless the Building Commissioner specifies a particular time by which the violation must be removed, it shall be assumed that each day the violation continues constitutes a separate violation.

In addition to any and all other remedies set forth in this Ordinance for a violation thereof, the Building Commissioner may, for any violation of this Ordinance, levy a fine against the violator of up to \$50.00. The Building Commissioner shall notify the violator(s) in writing of such fine. The Building Commissioner may, in the event that the violator maintains a bond or deposit with the City for such violations, charge the fine against such bond or deposit, and notify the violator of his intent to take such action. If the violator does not protest the notice of violation, in writing, within thirty (30) days, the City may charge the fine against the bond or deposit without

further notice. If no bond or deposit is on file, the violator shall pay the levied fine through the Local Ordinance Violations Bureau. The Building Commissioner may levy a fine for each day the violation is continued.

Section 3260: APPEAL PROCESS – a person charged with a violation of this ordinance may appeal the decision pursuant to the procedures found in the Violations Bureau Ordinance.

Section 3265: CONFLICTING ORDINANCES – any ordinance or provision of any ordinance of the City of Valparaiso in conflict with the provisions of this ordinance is hereby superseded by this ordinance.

Section 3270: SEVERABILITY – the invalidity of any section clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

Part IV  
Article XXXIII

**RECYCLING/SOLID WASTE DISPOSAL**

**Section 3300            Purpose**

The City of Valparaiso desires to make redemption and recycling of reusable materials convenient to the consumer to increase the recycling of reusable materials, to encourage the provision of recycling services by adopting a comprehensive and easily understood program of permitting and regulating such uses; to define the location for the interior and exterior storage of recyclable materials; to provide a long-term dedication to reaching the state's mandated waste reduction goals; and to provide a process and regulations for the disposal of solid waste materials that best protects the community's health, safety and welfare.

**Section 3301            Definitions**

*CARDBOARD*: a post consumer waste paper consisting of old corrugated or solid fiber cardboard boxes that have served their packaging purpose and are discarded for later collection, recovery and recycling.

*COLLECTION FACILITY*: a center for the acceptance by donation, redemption or purchase of recyclable materials from the public. Such a facility does not use power-driven processing equipment except as indicated in Section 3303. This does not include a temporary collection facility used by a nonprofit agency.

*COMPOSTING*: the biological treatment process by which microorganisms decompose the organic fraction of waste, producing compost.

*CORRUGATED CARDBOARD*: cardboard paper with thin, stiff outside walls with inside folds of parallel and alternating ridges and grooves.

*CURBSIDE COLLECTION*: a method of collecting source-separated recyclable materials from the curb or alleyway of residential waste generation.

*EFFECTIVE DATE*: on July 1, 1993 this ordinance dealing with recycling and waste disposal became effective.

*EXTERIOR COLLECTION AREA*: final building collection area for all recyclable materials.

*FACILITY PLAN*: a detail plan of the waste/recyclables to be collected and/or processed at a specific facility. The plan should include all materials to be processed/collected, estimated amount of each per year, square feet of storage space for each material, method of transporting materials, collection frequency, consumer information policies, and a facility contact name, address and phone number.

*HAZARDOUS WASTE*: any solid, liquid or other material so designated and identified as a hazardous waste by either the federal government or the State of Indiana (as defined in 40 CFR 261.3 and 40 CFR subpart C).

*HIGH GRADE PAPER*: the waste paper grades or sorted white ledger and computer paper generated in offices.

*INCINERATOR*: an engineered apparatus designed for the burning of waste under the effect of controls on temperature, retention time, air, and other combustion factors.

*INTERNAL RECOVERY SYSTEM*: the procedures and containers utilized to isolate and remove recyclables from a building.

*LANDSCAPE/YARD WASTE*: all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.

*LANDSCAPE WASTE COMPOSTING FACILITY*: an establishment for the composting and wholesale sale of waste materials accumulated as the result of the care of lawns, shrubbery, vines and trees.

*MOBILE RECYCLING UNIT*: an automobile, truck, trailer or van, licensed with the Department of Motor Vehicles which is used for the collection of recyclable materials. A mobile recycling unit also means the bins, boxes or containers transported by trucks, vans or trailers, and use for the collection of recyclable materials.

*PROCESSING FACILITY*: a building or enclosed space used for the collection and processing of recyclable materials including the preparation of material for efficient shipment, or to the end-user's specifications by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning and remanufacturing.

*PUBLIC DISPOSAL*: a written document issued by the Indiana Dept. of Environmental Management, and/or the City Building Commissioner authorizing a person to install, construct, maintain, or operate a vehicle or vehicles used for transport of solid waste, a solid waste disposal facility, or a transfer site or transfer station within the City of Valparaiso.

*RECYCLABLE MATERIAL*: discards or waste materials that are collected, separated, or processed, and eventually used as raw materials for products.

*RECYCLING*: the series of activities by which materials that would otherwise remain wastes are collected, separated, or processed and used in the form of raw materials.

*RECYCLING FACILITY*: a center for the collection and/or processing of recyclable materials; but does not include storage containers or processing activity located on the premises of a non-residential use and used solely for the recycling of material generated by that non-residential use.

*RECYCLING PROGRAM*: any program focused on the recovery of materials for use as raw material in the process of recycling. Includes materials captured prior to entering the wastestream or recovered from the wastestream.

*REGULATED POLLUTANT*: a pollutant which is regulated by the Health Department, the State of Indiana or the United States Environmental Protection Agency.

*REVERSE VENDING MACHINE*: an automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine.

*SALVAGING*: the controlled removal or storage of reusable materials from either a solid waste disposal facility, or a transfer site or transfer station.

*SCAVENGING*: the uncontrolled pickings or reclaiming of materials from either a solid waste disposal facility or a transfer site or transfer station.

*SOLID WASTE*: all putrescible and nonputrescible solid and semi-solid wastes, except human excreta, but including garbage rubbish, ashes, street cleanings, dead animals, offal, and solid commercial, industrial and institutional wastes and as further defined in 40 CFR 261.2 as well as the exclusions as found in CFR 261.4.

*SOLID WASTE DISPOSAL FACILITY*: a sanitary landfill, an incinerator (as defined in 40 CFR), a composting facility, a garbage grinding facility, or any other facility that is suitable for solid waste disposal and is constructed and approved in accordance the requirements of the State of Indiana and the Health Department.

*SYSTEM PLANNING*: considers "how" the recyclable materials will be transported from the point of separation to the collection area.

*TRANSFER SITE*: a location where public facilities have been provided for the temporary storage of a solid waste that has been generated by private residences or businesses in the City of Valparaiso until it is removed to an approved disposal facility.

*TRANSFER STATION*: a location where public facilities have been provided for the purpose of composting, grinding, separating, compacting, or otherwise preparing solid waste for either disposal in an approved facility or reuse.

*VEHICLE*: any devise for transportation by land, water or air, including mobile equipment with provision for transport of an operator, or solid and/or hazardous waste conforming with the requirements as listed in 49 CFR and 40 CFR including manifesting, marking, and placarding, etc.

*WASTE AUDIT*: an on-site study of the building or facility to determine the relative percentages and nature of the discards in the trash.

### **Section 3302                      Criteria and Standards**

For any facility defined under this Article, the City of Valparaiso will require: copies of all County Health Department, state and/or federal permit applications, copies of all environment impact assessment reports required by state and/or federal agencies, and a local site review as

detailed in Section 880. In addition, a Facility Plan will have to be filed with the City Planning office(r), All drainage plans have to prevent ponding that could promote waste decay and carry unstable organic materials into nearby water supplies.

No local permits will be issued until all County Health Department, state and/or federal permits are issued. All local building permits will require a two-year bond. If any regulated pollutants are found in excess of state and/or federal standards, the bond funds will be used towards corrective measures as determined by the state and/or federal agency (s) with legal jurisdiction.

Any facility defined under this Article must have M-2 zoning and meet the M-2 development standards; be a minimum of three (3) acres; cannot be located within 150 feet of residentially-zoned land or within 100 feet of commercially-zoned land (exception in Section 3303 (D)); and comply with Article XXXI, Tree/Landscaping Ordinance. Any facility can petition for a Special Exception in an M-1 zoning classification.

Any facility defined under this Article shall be maintained free of litter, rodents, and other undesirable material and/or pests; and will be inspected for cleanliness at least once a year by the Porter County Environmental Officer. A copy of all inspection reports will be sent to the Valparaiso Building Commissioner.

All Collection facilities and Processing facilities must also have a 15-foot buffer around all facilities (see buffer definition in Section 475). All containers shall be clearly marked to identify type of material that may be deposited and in accordance with EPA, DOT and OSHA requirements.

### **Section 3303                      Permitting Process**

For any facility defined by this Article, all local permits will be issued after:

- All required County Health Department, County environmental permits, state and/or federal permits are issued
- Submission of all pertinent Federal Right to Know documents under Title III
- A site review has been held and all issues identified have been solved bond has been posted for two operating years

#### **A. Reverse Vending Machines**

1. Can be located in C-3 or M-1 with a Special Exception
2. Do not require additional parking spaces
3. Shall not be located within 30 feet of an entrance to a commercial/industrial structure and shall not obstruct pedestrian or vehicular traffic.
4. Shall not occupy parking spaces required by primary use
5. Shall be no more than 50 sq. feet or more than eight feet high
6. Shall be constructed and maintained with durable waterproof and rustproof material
7. Shall be clearly marked to identify type of material to be deposited, operating instructions, and identify and phone number of operator
8. Shall be maintained in a clean litter-free condition on a daily basis
9. Operating hours shall be consistent with primary use and can be set by the City Plan Commission

10. Shall be illuminated if operating hours are between dusk and dawn.

**B. Collection Facilities**

1. Shall use containers that are constructed and maintained with durable waterproof and rustproof material, covered when site is not attended, secured from scavenging, and shall be of a capacity sufficient to accommodate materials collected and a collection schedule.
2. If allowed by Special Exception in an M-1 zone, all materials shall be stored in containers or in a mobile unit vehicle when attendant is not present.
3. If located within 1000 feet of residentially-zoned land, any power-driven collection facility shall not operate between 7 PM and 7 AM.

**C. Processing Facility**

1. All power-driven processing must meet all performance standards in Section 2405, M-1 Zoning Classification.
2. All exterior storage of materials shall be in sturdy containers or enclosures which are covered, secured, and maintained in good condition, or shall be baled or palletized.
3. No storage, excluding trucks, shall be visible above the height of the buffer area if located within 1000 feet of residentially zoned land, the power-driven processing facility shall not operate between 7 PM and 7 AM.

**D. Composting Facility**

1. Shall be located on a minimum of five (5) acres
2. Cannot be located within 500 feet of residentially-zoned land
3. Must meet Section 2405
4. Setbacks must be a minimum of 200 feet from all property lines

**Section 3305 Prohibited Practices**

- A notice shall be displayed on all facilities prohibiting dropping off of materials outside recycling enclosures or containers.
- No hazardous waste or materials shall be accepted or deposited at any disposal facility, transfer site, or transfer station, except as permitted by local, county, state and federal law.
- It shall be unlawful for any person to set fire or allow fire to be set to any solid waste at a transfer site or transfer station.
- No person shall cause or allow open burning of solid waste at a solid waste disposal facility.
- No person shall discard or deposit solid waste onto the ground at or on property adjacent to a transfer site or transfer station.

**Section 3307 Enforcement**

The enforcement of this Article shall be by the City Building permit process.

**Section 3309 Violations and Penalties**

A violation of this Article shall be deemed a misdemeanor and shall be punishable by fine. Any person, firm, or cooperation who violates or refuses to comply with any of the provisions for this Article shall be fined not more than one thousand (\$1,000) dollars for each offense. Each day a violation is permitted to exist shall constitute a separate offense.

Part IV  
Article XXXIV

**REGULATING DEVELOPMENT IN WETLANDS**

**Section 3400 Declaration of Policy**

It is declared to be the public policy of the City of Valparaiso to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoilation and destruction of freshwater wetlands, and to regulate use and development of such wetlands to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial to economic, social and agricultural development of the City of Valparaiso.

**Section 3410 Statement of Findings**

1. Acreage of freshwater wetlands in the jurisdiction of the City of Valparaiso has been lost, despoiled or impaired by unregulated draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such areas. Other freshwater wetlands are in jeopardy of being lost, despoiled or impaired by such unrelated acts.
2. The preservation, protection and conservation of wetlands is of public concern because of the benefits they provide. These include:
  - a. Flood and stormwater control. Wetlands may slow water runoff and temporarily store water, thus helping to protect downstream areas from flooding. Public health and private property in one part of a watershed may be harmed if wetlands are destroyed in a different part of that watershed.
  - b. Wildlife habitat. Wetlands are of unparalleled value as wildlife habitat, and the perpetuation of scores of species depends upon them. Many of the species are migratory and must have nesting, migration, and wintering habitat. The destruction of one kind of wetland habitat in one place may reduce populations of wildlife elsewhere. Where specific wetlands support endangered species, destruction of those wetlands may threaten the presence of the endangered species for all time.
  - c. Water supply. Wetlands themselves are a source of surface water and may, under appropriate hydrological conditions, serve to recharge groundwater and aquifers and to maintain surface water flow.
  - d. Water quality. Many wetlands serve as chemical and biological oxidations basins that help cleanse water that flows through them. Wetlands can also serve as sedimentation areas and filtering basins that absorb silt and organic matter, thereby protecting channels and harbors and enhancing water quality.
  - e. Fisheries. Wetlands provide the spawning and nursery grounds for several species of fish. The availability of these fish in lakes and streams may be adversely affected by the loss of wetlands adjacent to those waters.
  - f. Food chains. Food and organic materials supplied by wetlands support the fish and wildlife of adjacent waters. Wetlands serve as sources of nutrients in freshwater food cycles and nursery grounds and sanctuaries for freshwater fish.
  - g. Recreation. Wetlands provide important hunting, fishing, boating, hiking, birdwatching, photography, camping, and other recreational opportunities. In addition, wetlands may

be critical to recreation beyond their own borders because of the ability to protect water quality and protect and produce wildlife and fish.

#### **Section 3420 Authority**

This section is adopted under the authority of Indiana Code s 36-1-3-1 et seq. (Home Rule) and Indiana Code s 36-7-4. (Local Planning and Zoning).

#### **Section 3430 Definitions**

*Discharge of Dredged Materials* - any addition of dredged material into the waters of the United States. This term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber and forest products nor does this term include de minimum incidental soil movement occurring during normal dredging operations. This definition shall be considered to be automatically amended to conform with the definition of discharge of dredged material established from time to time by the United States of America or United States Army Corp of Engineers.

*Dredged Material* - material that is excavated or dredged from waters of the United States. This definition shall be considered to be automatically amended to conform with the definition of dredged material established from time to time by ,the United States of America or United States Army Corp of Engineers

*Fill Material* - any material used for the primary purpose of replacing a wetland area with dry land or of changing the bottom elevation of a wetland or a water body. This definition ,shall be considered to be automatically amended to conform with the definition of fill material established from time to time by the United States of America or United States Army Corp of Engineers.

*Indiana Department of Environmental Management* -department within the executive branch of the government of the State of Indiana created pursuant to IC 13-7-2-11 et seq.

*Indiana Department of Natural Resources* - An agency of the government of the State of Indiana created pursuant to IC 14-3-3-2 et seq.

*Metes and Bounds* - all real estate which does not qualify as a subdivision or Planned Unit Development as defined by this Ordinance.

*Person* - shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, or any other legal entity or its legal representative, agents or assigns.

*Regulated Drain* - an open drain, a tile drain or a combination of the two as defined in IC 36-9-27-2 or by any subsequent amendment thereof.

*Subdivision* - as defined in Article XXVII of the City of Valparaiso Zoning Ordinance.

*US Army Corp of Engineers* - agency authorized by the USA government to issue permits for development in and/or around all wetlands.

*Waters of the United States* - 1) all waters which are currently used, or were used in the past, or may be susceptible for use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; 2) all interstate waters including interstate wetlands; and 3) all other waters such as interstate lakes, rivers, streams (including intermittent streams), mud flats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, lakes or natural ponds. This definition shall be considered to be automatically amended to conform with the definition of waters of the United

States of America established from time to time by the United States of America or United States Army Corp of Engineers.

*Wetlands* - those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. This definition shall be considered to be automatically amended to conform with the definition of a wetlands established from time to time by the United States of America or United States Army Corp of Engineers.

#### **Section 3440                    Wetlands Identification**

In implementing the terms of this Ordinance, any of the following materials shall be prima facie evidence which may be relied upon by the agents and representatives of the City of Valparaiso, Indiana, for the identification, delineation and existence of a wetland:

- National wetlands inventory maps produced or maintained by the United States Fish and Wildlife Service.
- Maps produced or maintained and utilized by the United States Corp of Engineers for identification and/or delineation of wetlands
- Maps produced or maintained or utilized by the United States Soil Conservation Service for the identification and/or delineation of wetlands
- Field investigations performed by the United States
- Army Corps of Engineers or private consultants recognized by the Corps as authorities in wetland identification and delineation.

#### **Section 3460                    Subdivision of Land**

- A. Any primary plat submitted for subdivision approval must show thereon the location to scale of any wetland or regulated drain located upon the property to be subdivided.
- B. No final plat shall be issued by the City of Valparaiso or any agency thereof for any proposed subdivision of land in the City of Valparaiso identified as containing wetlands until the owner thereof has obtained all required state and federal permits or releases related to the dredging or filling of wetlands or waters of the United States.
- C. All permits or releases relating to wetlands required in subpoint (B) above shall be submitted by the subdivision applicant to the Planning office prior to the occurrence of any site development involving the dredging of material, discharge of dredged material, construction of infrastructure, buildings, roads or other site improvements.

#### **Section 3465                    Metes and Bounds Property**

- A. No dredging, discharge of dredged material or filling of wetlands or the waters of the United States in the City of Valparaiso shall be permitted or undertaken on Metes and bounds property by any person without having first obtained all required state and federal permits or releases.
- B. As a pre-condition to receiving a building permit for development of any metes and bounds property containing wetlands where the applicant for the permit does not intend to dredge, discharge dredged material or fill a wetland, such unaffected wetland shall defer to Section 3460 (A) and shall be submitted to the planning office along with a site plan showing the nature and location of the proposed development.

**Section 3470 Administration**

- A. Where a wetland will be affected by the dredging, discharge of dredged material or filling by a proposed subdivision of property or the development of any metes and bounds property as set forth in Sections 3460 and 3465 of this Ordinance, the Planning Department of the City of Valparaiso shall notify the Board of Directors of any Conservancy District within whose boundaries such wetlands exist, and the city/town or cities/towns closest to such wetlands, of the proposed subdivision or development of metes and bounds property.
- B. Complaints of alleged violations of this Ordinance are to be directed to the City Engineer office. The City Engineer shall be responsible for administering the investigation of complaints alleging the violation of this Ordinance and for initiating through the City Attorney the enforcement of this Ordinance as provided in Section 3480.
- C. Reports of alleged violations shall be reported to the Planning Office or the Engineering Office and the Engineering Office and/or the Building Commissioner will investigate. Either official may enter upon any real estate in the City of Valparaiso containing wetlands where dredging, the discharge of dredging materials, or fill material is being introduced to wetlands or waters of the United State for the purposes of inspecting such work or activity. If possible the owner or occupant of the property shall be given prior notice of the pendency of the inspection. However, the inability or omission to give prior notification to the owner or occupant of said property shall not adversely affect the terms, conditions, and enforcement of this Ordinance.

**Section 3475 Violations**

The following constitutes a violation of this Ordinance:

1. Failure to comply with the terms and conditions of this Ordinance
2. Failure to comply with state and federal laws relating to the dredging, discharge of dredged material, or filling of wetlands or waters of the United States or with the terms and conditions of any permits or releases relative thereto received by a person from any federal or state agency.

**Section 3480 Enforcement and Penalties**

This Ordinance may be enforced by implementing any or all of the following remedies or penalties:

- The issuance of a cease and desist order by the City of Valparaiso Building Commissioner or the City Engineer.
- The issuance of a fine by the City Engineer, of up to the maximum allowed by the provisions of the Ordinance Violations Bureau, Chapter 37 of the Municipal Code.
- The filing of a suit for injunctive relief.
- Notification of alleged violations of federal or state law to appropriate state or federal agencies.
- Institution of legal action seeking the imposition of a fine and reimbursement of costs and expenses for violations of this Ordinance.
- Upon a finding by a court of proper jurisdiction that a violation of this Ordinance by a person has occurred, a fine of up to two thousand five hundred dollars (\$2,500.00) per occurrence may be imposed. In addition, the City of Valparaiso shall be entitled to reimbursement from the person committing said violation of all out-of-pocket expenses which were incurred by the
- City of Valparaiso or any of its agencies as a result of the enforcement of this Ordinance. Said expenses include, but are not limited to, court costs, legal fees, administration fees, witness fees and consultant fees.

**Section 3485                      Severability**

Every section, provision or part of this ordinance is severable from every other section, provision or part of this ordinance, and if any section, provision or part thereof shall be held invalid by any court of competent jurisdiction, it shall not affect any other section, provision or part of this ordinance and the remaining portion of this ordinance shall continue to be in full force and effect.

Part IV  
Article XXXV

**SITE REVIEW AND DEVELOPMENT PLAN ORDINANCE**

**Section 3500            Policy and Purposes**

It is the policy of the City of Valparaiso to consider the development of a lot or parcel as subject to the control of the City pursuant to the official Comprehensive Plan for the orderly, planned, efficient, and economical development of Valparaiso.

These regulations are adopted to promote the health, safety, morals, convenience, order, and general welfare of the present and future residents of the City of Valparaiso by:

- Lessening the danger and congestion of traffic on streets and highways.
- Securing safety from fire, panic, flood and other dangers.
- Providing adequate light and clean air.
- Promoting distribution of population and land uses, and distribution of land deployment and utilization to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, schools, parks and other public facilities, educational opportunities, recreation, soil fertility, and food supply in accordance with the Valparaiso Comprehensive Plan.
- Providing standards to control the amount of open space and impervious surfaces within a development; to control the intensity of development in areas of sensitive natural resources or natural feature in order to reduce or eliminate adverse environmental impacts; to protect the people's right to clean air, pure water, and the natural scenic, historic and aesthetic values of the environment; and to protect natural resource which are a part of the ecological system to which we are all bound, which are therefore the common property of all the people including generations yet to come, and which must be protected to insure the health, safety and welfare of all the people.
- Providing standards for all types of dwelling units so that all the people may have access to decent, sound and sanitary housing.
- Securing economy in governmental expenditures, and protecting and conserving the value of land in the City, and the value of buildings and improvements upon the land.
- Fostering a balanced community, and minimizing conflicts among the uses of land and buildings.
- Protecting the character and maintaining the stability of residential, business and manufacturing areas, and promoting the orderly and beneficial development of such areas.

## **Section 3505                      Definitions**

Development - any change to a parcel of land in the City of Valparaiso that results in new building(s), additional building(s), addition to an existing building, additional accessory buildings, changes in topography of a parcel, or change of use of a parcel and/or buildings.

Development Plan - a written document between the City of Valparaiso and a developer (see Section 3520 for details)

Redevelopment - any change to an existing parcel and/or buildings in the City of Valparaiso including any change of use of a parcel and/or building.

Written Commitments - a written agreement between a developer and the City of Valparaiso indicating the specific conditions agreed to as part of a concept plan, site plan, special exception, or variance for any development or redevelopment in the City of Valparaiso, Indiana. Written Commitments must be time-specific, designate enforcement responsibilities, be recorded, and include an amendment process.

## **Section 3510                      Site Review Committee**

A Site Review Committee shall be established which is comprised of the following members: City Planner, Assistant City Planner, City Engineer, Building Commissioner, a representative of the Fire Department, Plan Commission, and other City Departments interested in development plans.

The Committee may, as a condition to the issuance of any building permit, require a site review for any project that meets any one of the following conditions:

1. More than one principal structure is scheduled for development on any parcel; or
2. Any structure is scheduled for development, redevelopment, or expansion except that such shall not apply to single family residences; or
3. Change of use of any part of an existing building in any zone is planned; or
4. Lot is being divided into two or more lots.
5. Any other development or redevelopment which the Site Review Committee finds presents special problems.

## **Section 3515                      Site Review Procedures**

The site review procedures are:

1. The site plan shall be scheduled for review by the Site Review Committee after preliminary discussion with the City Planner. All projects are scheduled at least a week in advance of the committee meeting.

It shall be the obligation of the Site Review Committee to expedite the site review as soon as possible; therefore the Committee may call special meetings when it is felt such a meeting would resolve any problems and allow the development to proceed in an orderly manner.

2. Pre-site review discussion is mandated with the City Planning Office prior to a site review. The purpose of the discussion is to:
  - a. acquaint the developer with the city's standards and requirements of all ordinances and the Comprehensive Plan;

- b. review the intent of the procedures and requirements of the City
  - c. acquaint the developer with any limiting characteristics of the specific site under review
  - d. reduce the time period between discussions, site review, and awarding of permits by encouraging a complete site plan whenever possible.
3. Once a site review has been scheduled, the developer should attend the meeting with at least five large site plans, or 12 small site plans so that all members can review the project. Fully reviewed site plans shall be required as part of a total Development Plan as defined in Section 802 and Section 3520.
  4. The Site Review Committee shall have a secretary who will take minutes of the meeting and distribute them to all participants. The minutes shall indicate if a site plan meets all City regulations, or if additional information is needed, before permits can be issued. The minutes shall also indicate if an additional review is required after more information is submitted. Revised site plans can be submitted for discussion any time after the first site review meeting. The minutes shall also indicate by checklist, all permits that will be required for the project.
  5. In determining whether a project meets City regulations, the Committee shall use existing standards and ordinances including, but not limited to, the Site Review Checklist (Appendix A) and the standards and requirements outlined in "An Ordinance Providing Standards for Acceptance of Municipal Improvements."
  6. Plans that have completed the site review process are valid for one year. If a project has not received permits in that time, the developer must request a new site review before any permits are issued.
  7. It is required by the Site Review Committee that once a site plan has been successfully reviewed, it will be built according to the plan as presented and/or amended by site review; or the developer shall request an additional review to discuss major changes to the site plan.
  8. If the site plan is part of a project that will be reviewed by the Plan Commission and/or the Board of Zoning Appeals, copies of the minutes shall be distributed to members of those boards.
  9. No permits shall be issued after a successful Site Review until all required easements, right-of-ways, plats, deed restrictions, or other required legal documents have been provided the City Engineer in a form ready for recording.

### **Section 3520                      Development Plan**

Development Plans shall be required of all Planned Unit Developments (PUD) and subdivisions per IC-36-7-4-1400 series. Written Commitments per IC 36-7-4-613, when required, will always become part of a Development Plan.

Written Commitments may be required for annexations, rezonings, and projects that require Board of Zoning Appeals approval.

Basic standards that will be taken into consideration for all projects requiring a Development Plan include:

- A. Encourage the preservation of natural site amenities and minimize disturbance of the natural environment.
- B. Encourage the protection of natural features during construction.

- C. Consider the City's "Standards for Municipal Improvements" regarding the number and placement of infrastructure.
- D. Consider the City's official Thoroughfare Plan regarding improvements of existing and/or construction of additional vehicular and/or pedestrian improvements.
- E. Encourage recreational space development whenever a minimum of 20 housing units are proposed. The recreational space should be located in a safe part of the development.
- F. Maintenance of recreational and non-recreational space, and all infrastructure should be specified and documented.
- G. Drainage plans should be considered in the context of the entire watershed, and should be phased to protect the development and the neighborhood.
- H. Consistency with the City's Comprehensive Plan.

### **Section 3521                      Development Plan Requirements**

Final concept plans shall be part of all Development Plans. In addition, Development Plans shall include:

1. Development schedule indicating approximate dates when construction will begin and finish.
2. Number of structures, parcel size of each lot, percent of lot coverage for each lot, and for the entire parcel.
3. Gross densities for each use - residential, commercial, industrial.
4. Types of buildings proposed, including general statements and/or sketches of exterior products and colors.
5. Statement identifying the intended means of assuring permanency, continuance, and maintenance of all open/recreational space to be dedicated for use by residents of the development and/or the general public. If the Park Department is a partner in the development, copies of all agreements shall be attached to the Development Plan.
6. Proposed restrictive covenants.
7. Legal description of the entire parcel.
8. Statements or attachments indicating that the Waste Water Treatment Plant and collection system, and the Water Department have capacity available for this development. Multi-family developments consisting of more than 1 (one) four-unit building, subdivisions, PUDs, and commercial and industrial developments shall have prior written approval from the Dept. of Water Works, to insure an adequate supply of water before plans are approved. The lack of this information shall not constitute in itself justification for denial.
9. Approved Site Plan and minutes of Site Review meeting.
10. General statements on the preservation of any unique environmental areas, or concerns of the parcel such as wetlands, flood plains, etc. All environmental areas shall be delineated on the approved site plan.
11. General statements on environmental considerations for the placement of all infrastructure, open space, recreational areas, underground services, paved areas, and finished grade levels. These statements should also include all considerations given for these environmental areas during construction.
12. General statements regarding the number and placement of all driveways, streets, alleys, and sidewalks including the widths and lengths of all acceleration and deceleration lanes. Parking facilities and access drives shall comply with Section 750 of this Zoning Ordinance.
13. Recognition of all right-of-ways and easements with reference to the approved site plan.

14. General statements on the number and placement of street lighting if the development is a PUD or subdivision.
15. The approved storm drainage plan shall be an attachment to all Development Plans. The approved drainage plan shall indicate the watershed the development is in. Drainage plans shall be in accordance with Article VI of this Zoning Ordinance.
16. Approved soil erosion control plan.
17. Approved landscape plan.
18. Other related data which may be reasonably required by the Site Review Committee.

#### **Section 3525                      Development Plan Process**

1. Developer files a concept site plan and draft development plan with the Planning Office.
2. A Site Review is schedule for the concept plan and draft development plan.
3. Concept site plan and draft Development Plan is presented to Plan Commission in a public hearing.
4. Plan Commission recommends to City Council both concept site plan and draft development plan.
5. City Council votes on site plan and draft development plan.
6. Developer files a preliminary plat with Planning Office and is scheduled for public hearing at Plan Commission.
7. Plan Commission holds public hearing on preliminary plat and final Development Plan.
8. Preliminary plat and final development plan are approved by Plan Commission.
9. Secondary Plat is filed with Planning Office.
10. Secondary Plat is approved by Plan Commission, and plat and Development Plan are recorded by developer.

#### **Section 3530                      Amendments and Waivers to Development Plan**

Development Plans can be amended after final approval by presenting proposed amendments to the Plan Commission. If the amendment is deemed minor (as defined in Article VIII, Section 870, the Commission may decide on the amendments without a public hearing. All other amendments must be presented in a public hearing before the Plan Commission.

The Plan Commission can waive a Development Plan requirement, when, in its opinion, the requirement is not necessary to meet the objectives as listed in Section 3520. The waiver should be part of the final Development Plan, and include findings supporting the waiver.

#### **Section 3540                      Written Findings for Development Plans**

The following findings and form will be used for all Development Plan approvals or denials by the Plan Commission.

The City Plan Commission, City of Valparaiso, now makes the following findings of fact in support of its approval/denial of the following Development Plan:

Name of developer\_\_\_\_\_

Date\_\_\_\_\_

Name of project\_\_\_\_\_

This Development Plan:

\_\_\_\_\_ is consistent with the stated purposes of the City's regulations

\_\_\_\_\_ meets the requirements and standards of the City's regulations

\_\_\_\_\_ deems the proposed waivers from the zoning regulations including but not limited to density, dimensions, area, bulk, and use, to be in the public interest

\_\_\_\_\_ there are adequate provisions in the physical design for public services, control over vehicle traffic, and protection of designated open spaces that further the amenities of light, air, recreational and visual enjoyment.

\_\_\_\_\_ includes adequate structures and roadways built in areas susceptible of flooding, ponding or erosion is compatible and beneficial to the adjacent properties and neighborhood

\_\_\_\_\_ adds to the physical development, tax base, and economic well-being of the entire community

\_\_\_\_\_ conforms with recommendations of the Comprehensive Plan

\_\_\_\_\_ appears to conform with all existing federal, state and local legislation and regulations.

The Plan Commission approved/denied by a vote of \_\_\_\_ to \_\_\_\_

President of the Plan Commission \_\_\_\_\_

**Part IV**  
**Article XXXVI**

**COMMERCIAL COMMUNICATIONS FACILITIES**

**Section 3600                      Statement of Purpose**

The purposes of this Ordinance are:

- to regulate the construction, placement, and modification of communications facilities;
- to preserve the aesthetic character and minimize the land use and visual impacts in the Valparaiso community from uncontrolled sprouting of communications facilities;
- to consistently and fairly permit the construction, placement, and modification of communications facilities;
- to provide the community with the benefits from new technological advances in communications;
- to promote front-end and long ranging planning with communications service providers as needs and technologies change; and
- to protect the public health, safety, and general welfare of the community.

**Section 3610                      Scope of Application**

Hereinafter, all construction, placement, and modification of communications facilities within the City of Valparaiso shall conform to the requirements of this Ordinance, all State and Federal regulations, and the Uniform Building Code.

**Section 3620                      Administration**

The Building Commissioner shall have the power to administer and enforce the provisions of this Ordinance. The Building Commissioner may delegate and assign such administrative, enforcement, and inspection duties hereunder to the City Police Department, the City Fire Department, or other appropriate person or agency.

**Section 3630                      Definitions**

1. **Antenna:** A device used in communications which transmits or receives radio or television signals, or any other spectrum-based transmissions/receptions. Antenna types include, but are not limited to omni-directional "whip" antenna, directional "panel" antenna, dish "microwave" antenna, and ancillary antenna.
2. **Co-Location:** Locating wireless communications equipment from more than one provider on a single site.
3. **Commercial Wireless Communications Service:** Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
4. **Communications Facility:** A land use facility, including any towers, accessory buildings, and structures, supporting antennas or other structures intended for use in connection with the commercial transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions.

5. **Communications Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes radio and television transmission towers, microwave towers, cellular telephone and wireless communications towers, alternative tower structures, and the like. Tower types include, but are not limited to guyed towers, wooden poles, lattice towers, and monopoles.
6. **Designed Fail Area:** The area surrounding a tower in which the tower could fall should it fail as structurally designed. The designed fail area is quantified in terms of linear distance from the tower to perimeter of the designed fail area. The designed fail area shall be certified by a structural engineer.
7. **Guyed Towers:** A tower anchored by cables or wires typically ranging in height from 100-300 feet which can accommodate a variety of users and antennas. These towers need significantly more land than a free standing tower.
8. **Lattice Towers:** A free standing tower typically ranging in height from 60-200 feet and can accommodate a variety of users. These towers generally have three or four support steel "legs" and hold a variety of antennas.
9. **Monopole Towers:** A free standing tower typically ranging in height from 25-200 feet which can accommodate multiple users. These towers consist of a single pole, approximately 3 feet in diameter at the base and narrowing to roughly 1.5 feet at the top and hold a variety of antennas.
10. **Radiofrequency Emission (RF):** A non-ionizing electromagnetic energy used to transmit communications signals through space. Non-ionizing energy is absorbed as heat, if absorbed at all.
11. **Tower Height:** The vertical distance from the ground level to the highest point of the tower or attached antenna or similar device, including attached communications facilities.
12. **Tower Setback:** The horizontal distance from the base of the tower to an abutting property line and/or proposed right-of-way.

#### **Section 3640            Existing Communications Facilities**

Communications facilities in existence on the date of adoption of this Ordinance which do not conform to or comply with this Article are subject to the following:

- (A) *Legal nonconforming Communications Facility:* Any communications facility located within the city limits on the date of adoption of this Ordinance which does not conform to the provisions of this chapter is eligible for characterization as a "legal nonconforming" communications facility and is permitted, provided it also meets the following requirements: The communications facility was covered by a building permit or variance on the date of adoption of this Ordinance if one was required under applicable law, or, if no building permit was required under applicable law for the communications facility in question, the communications facility had legal nonconforming status at such time.
- (B) *Unlawful Communications Facility.* Any nonconforming communications facility which does not fit the definition of a "legal nonconforming" communications facility is an unlawful communications facility.
- (C) *Annexed Communications Facility.* If land is annexed to the City of Valparaiso subsequent to the effective date of this Ordinance, any communications facility upon such annexed land

which does not conform to this Ordinance at such time shall have legal nonconforming status if:

- (1) Under applicable federal, state, and county regulations, the communications facility was legal in all respects immediately prior to annexation; and
- (2) The annexation was not conditioned upon the removal or modification of the communications facility.

Any communications facility not meeting such requirements is an unlawful communications facility.

(D) *Loss of legal nonconforming status.* In addition to the criteria set forth under Article V, of the Valparaiso Zoning Ordinance, legal nonconforming communications facility shall immediately lose its legal nonconforming status if:

- (1) The communications facility because of improper installation or maintenance, constitutes a threat to public health or safety and remains in such condition after a reasonable time is given to remedy the problem;
- (2) The communications facility is demolished or damaged to the extent of 50% or more of its value;
- (3) The permit, variance, or condition under which the communications facility was allowed expires; or
- (4) The communications facility is substantially structurally altered so as to prolong its expected life.

On the happening of any one of the above-listed events, the communications facility shall be immediately brought into conformance with this Ordinance or shall be removed.

(E) Nothing in this Ordinance shall relieve the owner or user of a legal nonconforming communications facility or owner of the property on which the legal nonconforming communications facility is located from any provisions regarding safety, maintenance and repair of the communications facility.

### **Section 3650                      Classification of Communications Facilities**

For the purpose of applying differing degrees of regulation, each communications facility shall be in one of the following classifications:

- A. *Attached Communications Facility.* A communication facility is an "attached communications facility" if it is affixed to a pre-existing structure (including buildings, water tanks, communications towers) provided such structure conforms to all applicable regulations, including building and zoning regulations.
- B. *Minor Communications Facility.* A communications facility is a "minor communications facility" if it:
  - (1) is not an "attached communications facility;"
  - (2) is of monopole construction and extends no higher than 125 feet above the ground at its base at its highest point; and
  - (3) is not located within one-half mile from any "minor" or "major" communications facility which
    - (a) currently exists, or

- (b) does not yet exist but has, previous to the filing of this application, been applied for, provided that such other application has not yet been finally denied.

C. *Major Communications Facility.* A communications facility is a "major communications facility" if it is neither an "attached" nor a "minor" facility.

### **Section 3660                      Basic Regulation**

The basic regulation and approval mechanism for communications facilities is as follows:

A. *Attached Communications Facility.* Such facility, provided it complies with §3670, will be approved only if:

- (1) it is located in any of the following zoning districts: OS, C-1, C-2, C-3, C-4, M-1, M-2, and

- a. in order to minimize visual impact, its placement and design is approved by the Site Review Committee for such facilities affixed to a pre-existing communications tower, buildings or water tower tanks.

B. *Minor Communications Facility.* Such facility, provided it complies with §3670, will be approved only if it is located in any of the following zoning districts: M-1, M-2.

C. *Major Communications Facility.* Such facility, provided it complies with §3670, will be approved only if , with due regard for all applicable Federal regulations, it:

- (1) is located in any of the following zoning districts: M-1, M-2; and
- (2) is approved by the Board of Zoning Appeals as a "Special Exception" in such zoning district upon proof that it constitutes a desirable and stable development in harmony with development in adjacent areas and is not contrary to the spirit and purpose of this Ordinance.

### **Section 3670                      General Requirements**

(A) All communications facilities shall comply with the following regulations as shown by the submittal of necessary documentation and/or inclusion on a site plan or the making of written promises. No building permit shall be issued until complete compliance is demonstrated.

1. **Lighting:** Towers shall not be illuminated by artificial means and shall not display strobe lights unless such is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
2. **Signs and Advertising:** The use of any portion of a communications facility for signs other than warning or equipment information signs is prohibited.
3. **Abandoned or Unused Towers or Portions of Towers:** Abandoned or unused communications facilities shall be removed within 120 days from the date of ceasing operations. A copy of the notice to the Federal Communications Commission of intent to cease operations of subject facility shall be submitted to the City of Valparaiso. If the lot or parcel for the facility is leased, a copy of the relevant portions of a signed lease which requires the removal of the communications facility upon cessation of operations at the site shall be submitted at the time of application for a building permit.
4. **Antenna Capacity/Wind Load:** Communications facilities shall be certified by a qualified and licensed professional engineer in the State of Indiana to conform to the latest structural

standards and wind loading requirements of the Uniform Building Code and the Electronic Industry Association.

5. **Radiofrequency Emissions (RF):** Documentation the proposed communications facility will comply with the latest health and safety standards established by the Federal Communications Commission on RF emissions and exposures.
6. **Liability Insurance:** Proof of adequate liability insurance shall be filed with the City of Valparaiso annually.
7. **Tower Color:** The color of the proposed tower will be of a light tone or color (except as required by the FAA) so as to minimize visual impact.
8. **Communications Facility Report:** A report shall be submitted to the City describing the type of proposed communications facility, its effective range, and the technical reasons for its design and placement. If the proposed communications facility cannot be accommodated on an existing or approved facility within a one mile search radius of the proposed site, the report shall specify the reasons and conditions along with supporting proof. And in an effort to promote long-range planning to minimize the number of towers and their impact on the community, providers of commercial wireless communications service shall include a plan delineating existing and any proposed and/or anticipated facilities within Porter County.
9. **Visual Impact Statement:** A statement and visual material (i.e. a plan, pictures, etc) indicating where within a one mile radius any portion of the proposed facility can be seen from ground level.
10. **Bond:** All applicants will furnish a surety bond or make an equivalent cash deposit in an amount to be determined by the Building Commissioner to be necessary to remove an abandoned facility in the event the persons responsible for such removal default.

(B) All major and minor communications facilities shall comply with the following regulations as shown by the submittal of necessary documentation and/or inclusion on a site plan. No building permit shall be issued until complete compliance is demonstrated.

1. **Placement:** Towers shall be sited within the rear yard unless located on a vacant lot or parcel.
2. **Setbacks:** Minimum setback requirements for communications facilities shall be based on the following, provided setbacks are not less than the requirements of the underlay or overlay zone:
  - a) monopole type towers shall provide a minimum setback of the tower designed fail area plus 10% of the tower height.
  - b) guyed and lattice type towers shall provide a minimum setback of the tower designed fail area plus 25% of the tower height.
  - c) towers sited on a lot or parcel which borders on a residential and/or commercial district, shall provide a minimum setback of 150% of the tower height from said residential district and 75% of the tower height from said commercial district unless **a) or b)** above is greater.
  - d) communications ancillary buildings shall comply with setback requirements as established under Article IV §450 for accessory structures.
3. **Screening:** The lowest ten feet of a communications ancillary building and tower shall be visually screened on a year-round basis with suitable vegetation and/or nearby buildings. The scale and nature of vegetation shall be of sufficient density to conform with the above

requirements within three years, as determined by the Valparaiso Department of Parks and Recreation.

4. **Security fence:** Ground ancillary buildings and towers shall have a security fence erected within the visually screened area.
5. **Co-Location Agreement:** A proposal for a new communications tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height and for at least one additional user if the tower is over 60 feet in height. The tower owner shall allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use. The conditions and terms for shared use shall be submitted to the City of Valparaiso. If the land for the tower is leased, a copy of the relevant portions of a signed lease allowing the tower owner to add additional users and associated facilities on the tower shall be submitted at the time of application to the City for tower erection.

### **Section 3680                      Communications Facility Permit Required**

No person shall (through his own action or those of persons he hires or directs) commence to erect, alter, construct, or relocate any communications facility without first obtaining a written Building Permit from the Building Commissioner. No person shall engage in any work requiring a permit without having the written permit in his possession at the job site.

### **Section 3681                      Permit Application Procedures**

Request for the erection, placement, or modification of a communications facility shall require a site review in accordance with *Article XXXV* of the zoning ordinance prior to making application for a building permit. Application for a building permit for any communications facilities may be made by the owner or agent of the facility or by a person acting on the agent's behalf. Applications shall be accompanied by the required fee and shall be made on a form provided by the Building Commissioner and shall contain or have attached thereto the following information:

1. Name, address, and telephone number of the applicant;
2. Name, address, and telephone number of the owner of the property, if not the applicant.
3. Name, address, and telephone number of the contractor who will erect, alter, construct, or relocate the communications facility (if not the applicant);
4. Name, address, and telephone number of the person or firm for whom the communications facility is installed (if not the applicant);
5. A detailed site plan of the parcel or lot showing the position of the communications facilities in relation to building(s) or structure(s), easements, rights-of-way, and applicable set-back lines;
6. A detailed site plan identifying any structure(s), height, use(s) within the tower designated fail area as certified by a structural engineer;
7. Two blue prints or ink drawings to scale of the plans and specifications and method of construction, attachment to the building or other structure or placement in the ground;
8. A copy of the stress sheets and calculations owing the structure's deadload and wind pressure capacities as certified by a structural engineer;
9. A description of any right-of-way cuts and/or utility service to be installed;

10. Written consent or other proof of authorization of the owner of the building, structure, land to which or on which the communications facility is to be erected;
11. Copies of any necessary easements; and
12. Such other information as the Building Commissioner may require to demonstrate full compliance with this Ordinance, other City Ordinance, or any applicable requirement of state or federal law.
13. It shall be the duty of the applicant to inform the City of Valparaiso of any changes in ownership of the facility or ownership of the property in question.

#### **Section 3682                      Issuance of Communications Facility Permit**

The Building Commissioner shall, within 30 days of the filing of the completed application, grant such permit if, and only if:

1. The application contains all necessary information;
2. The appropriate Building Permit fee has been paid;
3. The person erecting, altering, constructing, or relocating a communications facility holds a valid and current contractor registration with the City;
4. If the communications facility requires electrical service, proof that the electrical work will be done by an electrician who is in compliance with all state and local licensing requirements;
5. The communications facility complies with this Ordinance, all other City Ordinances, and all applicable state and federal laws.

The Building Commissioner may grant a permit on the condition that the work be stopped at specified time(s) to permit inspection(s). If the Building Commissioner denies such permit, he shall state the reason(s) therefor to the applicant. If the Building Commissioner fails to take any action within 30 days, the application is deemed denied. All denials are appealable pursuant to §3689.

#### **Section 3683                      Permit and License Fees**

The Building Commissioner shall maintain a schedule of fees for building permits. The amounts for such permits thereof shall be set from time to time by the Common Council.

#### **Section 3684                      Stop Orders**

The Building Commissioner or his delegee may issue a Stop Order commanding that work on a communications facility cease if (a) the facility requires a permit and none has been issued, (b) the person or firm erecting, altering, removing, or constructing the facility is not a registered and valid contractor, (c) the facility violates any provision of this Ordinance, or (d) the continuation of the work otherwise threatens public safety.

#### **Section 3685                      Inspections**

All communications facilities for which a permit is required shall be subject to inspection by the Building Commissioner or his delegee. Footing inspections may be required by the Building Commissioner for all facilities having footings. All facilities containing electrical wiring shall be subject to the provisions of the National Electric Code.

#### **Section 3686                      Notice of Violation**

When written notice of violation of any of the provisions of this chapter has been served on the property owner, agent, occupant, contractor, or builder, such violation shall be discontinued. Unless the Building Commissioner specifies a particular time by which the violation must be removed, it shall be assumed that each day the violation continues constitutes a separate violation.

#### **Section 3687                      Right of Injunction**

The Building Commissioner or his designated representative may institute a suit for injunction in an appropriate court to restrain an individual from violating the provisions of this Ordinance and may also institute a suit for a mandatory injunction directing the removal of any structure or improvement. Such remedy shall be in addition to other remedies, fines, and enforcements set forth in this or any other Ordinance.

#### **Section 3688                      Right of Entry**

In order to determine if any communications facility or structure is unlawfully erected, altered, or maintained, the Building Commissioner or any officer of the City may enter onto that property to investigate the matter and may take appropriate action to bring such communications facility or structure into compliance. However, before action to bring such communications facility or structure into compliance may be taken, all persons holding a substantial interest in the communications facility or structure, as identified by §3681, must be notified and given a reasonable opportunity to bring the facility or structure into compliance, except that the City may, without such notice, take any steps necessary to alleviate immediate public danger. The City's cost for any work done on the site may be recouped from any person chargeable with the violation or from the surety or deposit made pursuant to §3670(A)(10).

#### **Section 3689                      Appeals**

Any person aggrieved by a decision of the Building Commissioner shall have a right to appeal such decision within 30 days to the Board of Zoning Appeals.

#### **Section 3690                      Fines for Violation**

In addition to any and all other remedies set forth in this Ordinance for a violation thereof, the Building Commissioner may, for any violation of this Ordinance, levy a fine against the violator of up to the maximum allowed by the provisions of the Ordinance Violations Bureau, Chapter 37 of the Municipal Code. The Building Commissioner shall notify the violator(s) in writing of such fine. The Building Commissioner may, in the event that the violator maintains a bond or deposit with the City for such violations, charge the fine against such bond or deposit, and notify the violator of his intent to take such action. If the violator does not protest the notice of violation, in writing, within thirty (30) days, the City may charge the fine against the bond or deposit without further notice. If no bond or deposit is on file, the violator shall pay the levied fine through the Local Ordinance Violations Bureau. The Building Commissioner may levy a fine for each day the violation is continued.

Part IV  
Article XXXVII

**WELLHEAD PROTECTION OVERLAY ORDINANCE**

**Section 3700: Purpose**

The purpose of this ordinance is to provide for the protection of the Valparaiso area's designated Wellhead Protection Areas (WHPA's) by creating WHPA Overlay Districts. These WHPA's are ground water resources that serve as a source of drinking water for the Valparaiso public water system. WHPAs are located within the designated wellhead protection areas as delineated on attached maps, and consistent with the Indiana Wellhead Protection Rule (Indiana, 1997), IC 8-4-1.1 et seq. IC 13-18-17-6, and the federal Safe Drinking Water Act 42.

The regulations adopted in this ordinance are to safeguard the public health, safety, and general welfare of the community and its water customers, and to protect the community's potable water supply against contamination from existing and future potential contamination sources. This ordinance seeks to protect through regulating the storage, handling, use and/or of those substances which are presently regulated by Indiana statutes, regulations, and/or rules and/or federal statutes, regulations and/or CFRs, and could pose a threat to the Valparaiso wellheads and well fields located in the City of Valparaiso and Porter County.

**Section 3701: Definitions**

The following definitions apply throughout this ordinance.

1. *Applicant* – any person or entity applying for subdivision plat, Planned Unit Development approval, rezoning approval, Special Exception, variance to use or developmental standards, and/or building permit.
2. *Community Public Water Supply System* – CPWSS, a public water supply system that serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.
3. *Effective Date of Ordinance* - 05-08-2000
4. *Federal Statutes, Regulations and CFRs* – as listed in attachment
5. *IDEM* – Indiana Department of Environmental Management
6. *Indiana statutes, Regulations and Rules* – as listed in attachment
7. *Overlay* - district designated by the Wellhead Protection Area
8. *Porter County Haz-Mat Regulations* – regulations as defined in this document
9. *Public Water Supply System* – PWSS is a public water system for the provision to the public of piped water for human consumption if such a system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year.
10. *Wellhead Protection Administrator* – WHP is an official appointed by the CPWSS who administers and implements the CPWSS's WHP Program.

11. *Wellhead Protection Area* – WHPA is the surface and subsurface area, delineated by a CPSS and approved by IDEM under 327 IC 8-4.1-1 et seq., which contributes water to a CPWSS production well or wellfield and through which contaminants are likely to move through and reach the well within a specified period.
12. *Wellhead Protection Program* - a WHPP is a program to sustain drinking water quality in ground waters that supply public water supply wells and wellfields, as mandated by the 1986 amendments to the federal Safe Drinking Water Act, Title II, Section 205, Subsection 1428.
13. *Wellhead Protection Zone* – the land area encompassing a Wellhead Protection Area established by the Valparaiso Plan Commission as set forth in Section 3710.

**Section 3710: Designation Of Overlay For Wellhead Protection Areas**

A properly designated WHPA is hereafter designated as a WHPA Overlay District, as described on the attached maps. A WHPA, as designated on maps, is not considered a zoning map, and shall not effect the uses or developmental standards applicable to any land located within a WHPA. All amendments to current WHPAs and any new WHPAs have to be filed with the Valparaiso Plan Commission for approval if any section is outside the city limits.

**Section 3712: Current Environmental Federal, Indiana, And Local Statutes, Regulations, Rules, Codes And/Or Ordinances**

Attached to this ordinance are a list of federal and state statutes, regulations and/or rules that regulate, in some fashion the storage, handling, mixing and/or use (and/or misuse) of hazardous substances. The list is not necessarily all-inclusive. All activities within the WHPA are to be in compliance with these and other regulations that may be in effect. The WHP Administrator shall monitor and inspect activities within the WHPA for compliance of such regulations.

**Section 3720: Construction In WHPA Overlay District**

All new construction or reconstruction in a WHPA will require site review by the CPWSS. All site reviews will require a site plan that designates the area that is in the WHPA of any wellhead. All subdivision plats and Planned Unit Development plats in the WHPA will have to designate the WHPA area on the Secondary Plat that is recorded. The Wellhead Protection Administrator will be notified of all such plats, site plans, and site reviews. This section applies to – Planned Unit Developments as defined in Article VIII; Subdivisions as defined in Article XXVII, Special Exceptions, variances, and building permit processes as defined in Article XII, and rezonings as defined IC 36-7-4-600 et seq.

**Section 3730: Reporting Requirements For Regulated Substance Activity** Document to Porter County Regulations Chapter 18.20 – Hazardous Spillage Reporting System.

**Section 3740: Violations**

The WHP Administrator shall monitor and inspect for compliance to the existing environmental and WHP regulations. The WHOP Administrator will report any violation

to the Building Inspector (or Zoning Administrator) who has the authority to issue violation notices pursuant to the Violations Bureau Ordinance. The WHP Administrator shall report a second violation to IDEM.

**Section 3750: Appeal Process**

A person charged with a violation of this ordinance may appeal the decision pursuant to the procedures found in the Violations Bureau Ordinance.

**Section 3755: Conflicting Ordinances**

Any ordinance or provision of any ordinance of the City of Valparaiso in conflict with the provisions of this ordinance is hereby superseded by this ordinance.

**Section 3760: Severability**

The invalidity of any section clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

14.

Part IV  
**Article XXXVIII**  
**DESIGN STANDARDS FOR LARGE RETAIL ESTABLISHMENTS**

**Section 3800 PURPOSE**

The intent of this ordinance is to provide regulations for the development of large retail stores and centers that are consistent with the standards of the Valparaiso community. The City of Valparaiso (“Valparaiso”) has seen an increase in the development of large retail stores and centers, especially on the east side of Valparaiso. It is anticipated that this trend will continue. Valparaiso believes it to be very important that these future developments have guidance to fit within Valparaiso’s standards.

Large-scale retail stores (such as discount stores, home improvement warehouses, etc.) are commonly referred to as ‘Big Box’ stores. These stores typically look as they sound, a large box-like structure with large areas for parking. Developments of several of these types of stores are known as Power Centers. Another recent trend in retail development has been the introduction of the lifestyle center, which seeks to combine retail with higher levels of aesthetics and pedestrian access. These large retail establishments demand high visibility locations thereby determining the character and attractiveness of Valparaiso’s commercial corridors.

Many communities across the country have adopted similar types of ordinances to provide reasonable design standards that address the health, safety and welfare of its citizens while balancing the legitimate development and commercial needs of property owners.

The standards set forth in this ordinance are designed to establish some basic design standards, architectural variety, and compatible scale, pedestrian and bike access, and mitigation of negative impacts. The goal of this ordinance is to encourage development that contributes to Valparaiso by reflecting its physical character.

**Section 3810 ADMINISTRATION**

The following standards are intended to be used as a design aid by developers proposing large retail developments and as an evaluation tool by the staff of the Planning Department in their review processes. These guidelines and standards shall apply to all projects collectively or individually, which are processed according to the criteria for proposed development plans and to all projects for retail establishments with footprints in excess of 15,000 square feet. The standards in this Article shall supercede underlying zoning requirements where applicable. Where any conflict between the provisions in this Article and other articles of the Valparaiso Zoning Ordinances exist, the provisions of this section shall prevail.

Development plans will be reviewed by the Plan Commission staff prior to site review for compliance with this ordinance. If all standards are met, staff may approve the development plan. In the event that the development plan or design deviates from this ordinance, the Board of Zoning Appeals shall review and, if appropriate, approve deviations. Staff may at its discretion require the Plan Commission to review and approve all development proposals by this ordinance.

These Standards and guidelines will be used to help inform developers of the requirements of the project and make sure that all requirements are met. Standards are mandatory for projects which qualify under the terms of this article. Guidelines are not made mandatory,

**but are used to inform the planners, design consultants, developers and City staff about overall design objectives.**

#### **Section 3820 Definitions**

- Arcade – an area contiguous to a street or plaza that is open and unobstructed, and that is accessible to the public at all times. Arcades may include building columns, landscaping, statuary and fountains. Arcades do not include off-street loading/unloading areas, driveways or parking areas.
- Articulate – to give emphasis to or distinctly identify a particular element. An articulated façade would be the emphasis of elements on the face of a wall including a change in setback, materials, roof pitch or height.
- Berm – an earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise or provide a buffer from adjoining uses.
- Breezeway – a structure for the principal purpose of connecting a main building or structure on a property with other buildings.
- Buffer – see also “screen”. An area provided to reduce the conflict between two different land uses. Buffers are intended to mitigate undesired views, noise and glare - effectively providing greater privacy to neighboring land uses. Typical buffers consist of materials that serve this purpose and include, but are not limited to, plant materials, walls, fences and/or significant land area to separate the uses.
- Buffer Strip – a portion of a lot or property used to visually separate one use from another through the use of vegetation, distance or other approved method.
- Building Face, Front – any building face, which can be touched by a line drawn perpendicular to street (public or private).
- Building Face, Public – any building side that is visible from public or private right-of-ways and/or the faces that contain public entry.
- Building Mass – the building’s expanse or bulk and is typically used in reference to structures of considerable size.
- Design Guidelines – statements and graphics intended to direct the planning and development of the built environment in a particular manner or style so that the end result contributes positively to the overall development.
- Dormer – a window set vertically in a gable projecting from a sloping roof.
- Facade – the portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.
- Front Yard – the portion of the front yard extending the full width of the lot and measured between the front lot line and a parallel line across the front of the building. Corner and double lots shall adhere to the front yard setback(s) for each frontage.
- Gable – a triangular wall section at the end of a pitched roof, bounded by the two roof slopes.
- Hip Roof – roof without gables.
- Parapet – the portion of a wall that extends above the roofline.
- Pedestrian Oriented Development – development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and buildings/structures rather than on auto access. The buildings/structures are generally located close to the public or private right-of-way and the main entrance(s) is oriented to the street sidewalk. There are

generally windows or display cases along building facades. Although parking is provided, it is generally limited in size and location.

- Pedestrian Walkway – a surfaced walkway, separate from the traveled portion of a public or private right-of-way or parking lot/driving aisle.
- Portico – a porch or walkway with a roof supported by columns, often leading to the entrance to a building.
- Public/Private Right of Way – any public or private road, access easement intended to provide public access to any lot/development, but excluding any service road or internal driving aisles (i.e., within parking lots).
- Screen – see also “buffer”. The sole purpose of a screen is to block views. A screen should be constructed of opaque materials and whose height will be effective in obstructing unwanted views.
- Setback – a prescribed distance or an area between one element and another (i.e., a building and the road right-of-way). Within these guidelines, the term also refers to:
  - o The minimum distance and the area measured from the property line to the interior of a parcel where buildings may be constructed.
  - o The required distance and the area between the edge of the parking lot pavement/curb and the property line or buildings/structures.
  - o Placing a building face on a line to the rear of another building line.
- Streetscape – all elements of a development or area that are in view from other points along a street.

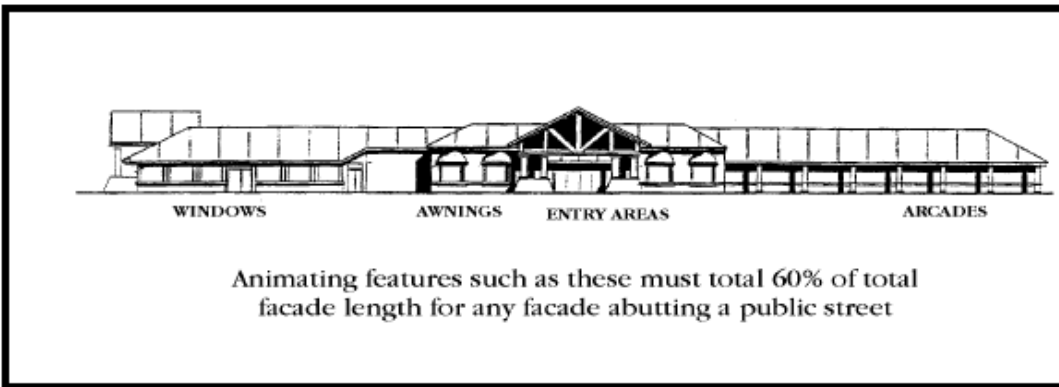
## **Section 3830 DESIGN STANDARDS – AESTHETIC CHARACTER**

### **A. Facades and Exterior Walls**

**Guideline:** Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances of large retail buildings and provide visual interest that will be consistent with the community’s identity character, and scale. The intent is to encourage a more human scale that residents of Valparaiso will be able to identify with their community. The resulting scale will ensure a greater likelihood of reuse of structure by subsequent tenants.

#### **Standards:**

1. Developments with a facade over 100 feet in linear distance or length shall incorporate wall projections or recesses minimum of three (3) feet in depth and a minimum of twenty (20) continuous feet within each 100 feet of facade length and shall extend over twenty (20) percent of the facade. Developments shall use animating features such as arcades, display windows, entry areas, towers, or awnings along at least forty (40) percent of the facade. Entryways to major anchors shall project not less than five (5) feet. This shall be represented by a change in the wall of the building and not only in a covered entry.
2. All exterior building elevations that face public streets, customer parking areas or areas of residential use shall be designed so that there are no large expanses of blank walls. This requirement can be met by employing the use of architectural features including but not limited to: doors, windows, pilasters, columns, horizontal and vertical offsets, material and color variations, decorative cornices, projecting awnings, arcades, entry areas, canopies, murals, towers and graphics.



(Drawing courtesy of Fort Collins, Colorado)

## B. Smaller Retail Stores

**Guideline:** The presence of smaller retail stores gives a center a “friendlier” appearance by creating variety, breaking up large expanses, and expanding the range of the site’s activities. Windows and window displays of such stores should be used to contribute to the visual interest of exterior facades. The standards presented in this section are directed toward those situations where additional, smaller stores, with separate, exterior customer entrances are located in the principal buildings or development site.

**Standards:** Where principal buildings contain additional, separately owned stores, which occupy less than (25,000) square feet of gross floor area, with separate, exterior customer entrances:

1. The street level facade of such stores shall be transparent between the height of three feet and eight feet above the walkway grade for no less than sixty 60 percent of the horizontal length of the building facade of such additional stores.
2. Windows shall be recessed and should include visually prominent sills, heads, or other such forms of framing.

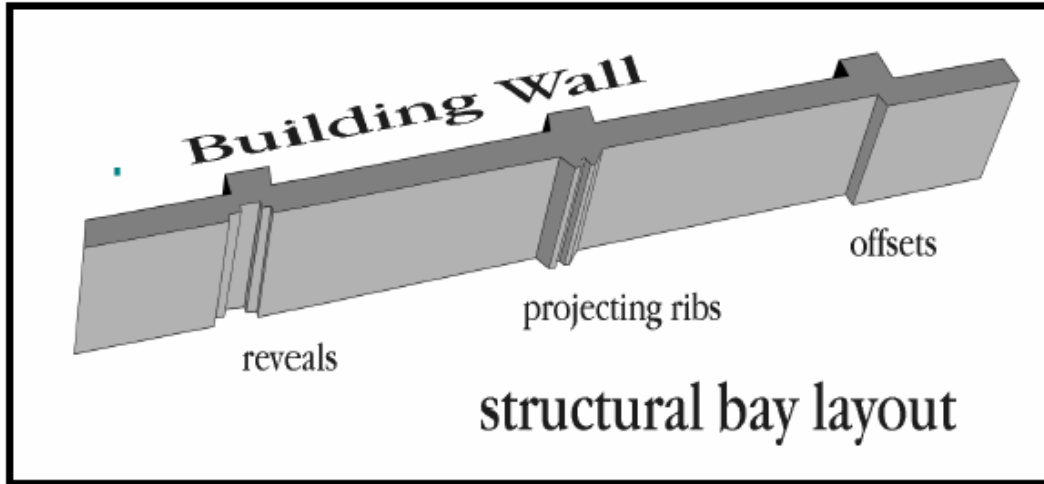
## C. Detail Features

**Guideline:** Buildings should have architectural features and patterns that provide visual interests, at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standard should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.

**Standard:** Building facades shall include a repeating pattern that shall include no less than three of the elements listed below. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or twenty (20) feet vertically.

- Color change
- Texture change

- Material module change
- Expression of architectural or structural bay through a change in plane no less than twelve (12) inches in width, such as an offset, reveal, or projecting rib.



Expression of Architectural or Structural Bay.

(Drawing courtesy of Fort Collins, Colorado)

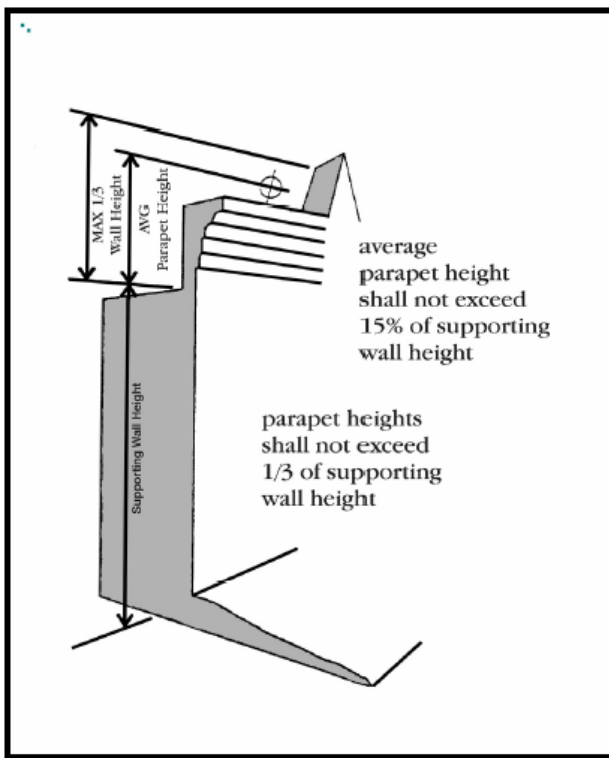
#### D. Roofs

**Guideline:** Variations in rooflines should be used to add interest to, and reduce the massive scale of large buildings. Roof features should compliment the character of adjoining neighborhoods.

#### Standards:

1. At least one roof change of three (3) feet above the predominant roofline. Roof lines shall be varied with change in height every 100 linear in the building length or forty 40% of the building length, which ever is less.
2. All exterior building elevations that face public streets, customer parking areas, or areas of residential use shall be designed so that there are no large expanses of blank walls. This requirement can be met by employing the use of architectural features including but not limited to: doors, windows, pilasters, columns, horizontal and vertical offsets, material and color variations, decorative cornices, projecting awnings, arcades, entry areas, canopies, murals, towers, and graphics.
3. Parapets shall conceal flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed 15% of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three dimensional cornice treatments of not less than twelve inches in height, and shall incorporate no less than three reliefs. In addition to parapets, gable roofs, hip roofs, or dormers may be used to conceal flat roofs and roof top equipment. In the event that parapets are used as an architectural element, they shall be provided on all sides of the building in order to avoid the appearance of false facades from the back or sides of large retail establishment buildings.

4. All roof-mounted equipment shall be architecturally screened by materials and colors consistent with the design of the building.
5. Roofs shall exhibit one of the following features:
  - a. Overhanging eaves extending no less than 3 feet past the supporting walls
  - b. Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to 1 foot of vertical rise for every 3 feet of horizontal run and less than or equal to 1 foot of vertical rise for every 1 foot of horizontal run.
  - c. Multiple roof slope planes.
  - d. Raised cornice parapets or towers above all major entries and all anchor store entries. If no anchor exists at least two locations exhibiting the above standards, clock or bell towers or similar features dormers, belvederes, cupolas, etc.



Parapet Standards.

(Drawing courtesy of Fort Collins, Colorado)

## E. Materials and Colors

**Guideline:** Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they should be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.

### Standards:

1. Predominant exterior building materials shall be high quality materials. These include, without limitation:
  - a. Brick
  - b. Limestone
  - c. Other native stone
  - d. Textured colored aggregate concrete masonry units
2. Primary predominant facade colors shall be low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited as a predominant building color.
3. Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.
4. The use of the following as predominant exterior building materials shall be prohibited:
  - Pre-fabricated metal wall panels
  - Smooth-faced concrete block
  - Vinyl, composite or metal siding
  - Wood
5. The above standards shall apply to all primary facades – those visible from a right-of-way or a customer parking lot

#### **F. Building Entryways**

**Guideline:** Entryway design elements and variations should give orientation and aesthetically pleasing character to the building. The standards identify desirable entryway design features.

**Standard:** Each principal building on a site shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:

- canopies or porticos
- overhangs
- recesses/projections
- arcades
- raised corniced parapets over the door
- peaked roof forms
- arches
- architectural details such as tile work and moldings which are integrated into the building structure and design
- Integral planters or wing walls that incorporate landscaped areas and/or places for sitting

**Where additional stores will be located in the principal building, each such store shall have at least one exterior customer entrance, which shall conform to the above requirements.**

## **Section 3840: SITE DESIGN AND RELATIONSHIP TO THE SURROUNDING COMMUNITY**

### **A. Access Requirements**

**Guideline:** Vehicular access shall be such that traffic congestion is minimized and safety is maximized. Care shall be exercised to meet existing and projected through traffic needs as well as those required to serve the large retail establishment. Consideration shall also be given to the needs of public and/or on demand transportation services by providing pick-up and drop-off locations.

**Adequate provisions shall also be made to accommodate bicycle and pedestrian traffic to, through and from the large retail establishment. The City's "Pathways & Greenways Master Plan 2005" should be consulted for guidance.**

**Site and off-site improvements necessary to provide the proper access shall be the responsibility of the developer.**

#### **Standards:**

1. **Study:** At the discretion of the Engineering Director or the Planning Director, the developer shall provide a traffic impact analysis/study prepared under the direction of a professional engineer, licensed in the State of Indiana. Said engineer, or his staff, shall be trained and experienced with traffic engineering analysis and design, and, upon request, shall provide documentation of that training and experience.

The study shall address existing and projected traffic volumes, movements and needs for both the through traffic on the roads and the traffic projected to use the LARGE RETAIL ESTABLISHMENT. The study shall summarize findings with specific recommendations for all improvements necessary.

The City may choose to employ an independent consultant to review and comment on the study and recommendations.

2. **Vehicular Access Locations:** Primary vehicular access locations shall only be on Arterial Streets as designated in Part II, Article X, Streets and Thoroughfares, in the Zoning Ordinance, said Section hereafter called the "Thoroughfare Plan". Secondary access locations may be from Collector Streets with the approval of the Planning Commission. Access points to local streets shall only be permitted with the approval of the Planning Commission and the Board of Works, and only after adequate provisions are made so that the commercial traffic cannot use the street as a short cut through existing residential developments.

Access locations shall be adequately removed from existing and proposed drives and intersections so that conflicting traffic movements are not increased and/or do not occur.

3. **Access Geometrics:** All proposed improvements for vehicular access shall conform to the provisions of "A Policy on Geometric Design of Highways and Streets" (known as the Green Book), as published by the American Association of State Highway and Transportation Officials (AASHTO).
4. **Traffic Signals:** Where warranted by the study, traffic signals meeting the standards of the City, shall be constructed/installed at access points and intersections that receive the traffic generated by the LARGE RETAIL ESTABLISHMENT.

The developer shall execute a traffic signal agreement with the City for any access points or intersections where the study indicates that signal warrants are not met, but may be met at some time in the future. The agreement shall be recordable, shall run with the land, and be binding on all of the developer's successors and/or assigns, and provide for payment for traffic signals at those locations if and when they are warranted.

5. Rights-of-Way: Where access improvements on or adjacent to public rights-of-way exceed the existing or proposed Thoroughfare Plan right-of-way widths, the additional right-of-way necessary shall be dedicated to the City prior to the issuance of permits.
6. Transit: In order to accommodate the City's transit and/or on-call transportation system, loading and drop-off points shall be provided in the site at a location(s) appropriate to accommodate the pedestrian riders, such as a bench with a covering or canopy. Locations shall be such that other vehicular traffic is not blocked and/or the safety of the passengers is not compromised as they enter or leave the transit vehicle. Bike racks shall be installed in convenient locations, and shall consist of non-corrosive materials.
7. Bicycle and Pedestrian: Improvements on and/or off-site shall be made to accommodate both bicyclists and pedestrians. Hard surface paths/walks, separate from the vehicular access, shall be provided so that customers of the LARGE RETAIL ESTABLISHMENT can have access without having to use vehicular transportation. In general, paths/walks shall be constructed through landscaped areas on the site.

Where the paths/walks cross-vehicular accesses, every attempt shall be made that the crossing is at a signalized location. In any event, every such crossing point shall be "pedestrian friendly", and shall utilize pedestrian timings on signals, refuge islands, and shall be properly marked and signed.

8. General: The Traffic and Safety Committee shall review the study and all plans for site and off-site vehicular, bicycle and pedestrian access and shall forward comments to the Planning Commission and/or Board of Works, as appropriate.

## **B. Entrances**

**Guideline:** Large retail buildings should feature multiple entrances. Multiple building entrances reduce walking distances from cars, facilitate pedestrian and bicycle access from public sidewalks, and provide convenience where certain entrances offer access to individual stores, or identified departments in a store. Multiple entrances also mitigate the effect of the unbroken walls and neglected areas that often characterize building facades that face bordering land uses.

### **Standard:**

1. At least two (2) sides of a large retail establishment shall feature customer entrances. The two (2) required sides shall be those planned to have the highest level of public pedestrian activity, and one (1) of the sides shall be that which most directly faces a street with pedestrian access. The other of the two (2) sides may face a second street with pedestrian access, and/or a main parking lot area. All entrances shall be architecturally prominent and clearly visible from the abutting public street. Movie theaters are exempt from this requirement.

2. Large retail centers shall face public streets. Commercial facilities consisting of an individual building on one street shall not be placed perpendicular to the entry-facing street.
3. Not all buildings must face major roadways in multiple building commercial sites. At least twenty 20% of all buildings within a retail center with more than (5) five buildings shall be located on the perimeter of the center.
4. Where buildings face inward toward large retail center complexes, the walls facing public streets shall exhibit architectural features similar to those on the primary entrances of the building, but shall not mimic the entrance features, or give the impression of false entrances.
5. In the event that it is impossible to achieve two (2) entrances to a large retail establishment, the building may contain at least one (1) of the two (2) required entrances to lead into a smaller retail establishment (such as a branch bank, travel agency, beauty salon, etc.) on the building's perimeter. In this situation at least one (1) entrance must be provided for the large retail establishment.

### **C. Parking Lot Orientation**

**Guideline:** Parking areas should provide safe, convenient, and efficient access for vehicles and pedestrians. They should be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance.

**Standard:** No more than seventy-five (75) percent of the off-street parking area for the lot, tract or area of land devoted to the large retail establishment shall be located between the front façade of the large retail establishment and the abutting streets.

Access to out lots from public streets shall be prohibited. Access to out lots shall be from entry drives or interior site circulation.

### **D. Outdoor Storage, Trash Collection, and Loading Areas**

**Guideline:** Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, shall be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances.

#### **Standards:**

1. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way and shall be enclosed on all sides by an enclosure of comparable materials to that of the primary structure or surrounded by earth berm with landscape plantings of not less than six (6) feet in height as described in the landscape section. No areas for outdoor storage, trash collection or compaction, loading, exterior grade mounted equipment or other such uses shall be located within twenty (20) feet of any public or

private street, public sidewalk, or internal pedestrian way. Dumpsters, service or equipment areas must be completely enclosed within an opaque enclosure consisting of materials architecturally compatible with the primary structure. All enclosures must include a gate, consisting of similar design and opaque materials such as solid wood or vinyl. Chain link, slats, and gates with similar materials shall be prohibited. Roof top equipment shall be enclosed with an opaque design similar to the primary building.

2. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping plan so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.
3. Non-enclosed areas for the storage and sale of seasonal inventory including vehicles and trailers for rent shall be permanently defined and screened with decorative walls and/or fences, such as wrought iron. Chain link fence shall be prohibited on facades facing customer parking areas or public right of ways. Materials, colors, and designs of screening walls and/or fences and cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.
4. Temporary sales/displays, such as Christmas trees, landscape materials, and fireworks, shall be permitted for up to four (4) months each year and may not be located along a public street or sidewalk. Location and time/duration of such sales/displays shall be reviewed and approved by the Planning Director or appointed designee. Businesses wishing to have temporary sales/displays must reapply annually.

## **E. Pedestrian Flows**

**Guideline:** Pedestrian accessibility opens auto-oriented developments to the neighborhood, thereby reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for public sidewalks and internal pedestrian circulation systems that can provide user-friendly pedestrian access as well as pedestrian safety, shelter, and convenience within the center grounds.

### **Standards:**

1. Sidewalks at least (5) five feet in width shall be provided along all sides of the lot that abut a public or private right-of-way. In cases where pedestrian facilities are noted on the City of Valparaiso pathways and alternative transportation master plan, such standards shall apply. Sidewalks or pathways may need to be extended offsite to connect with existing facilities.
2. Continuous internal pedestrian walkways, of not less than five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs,

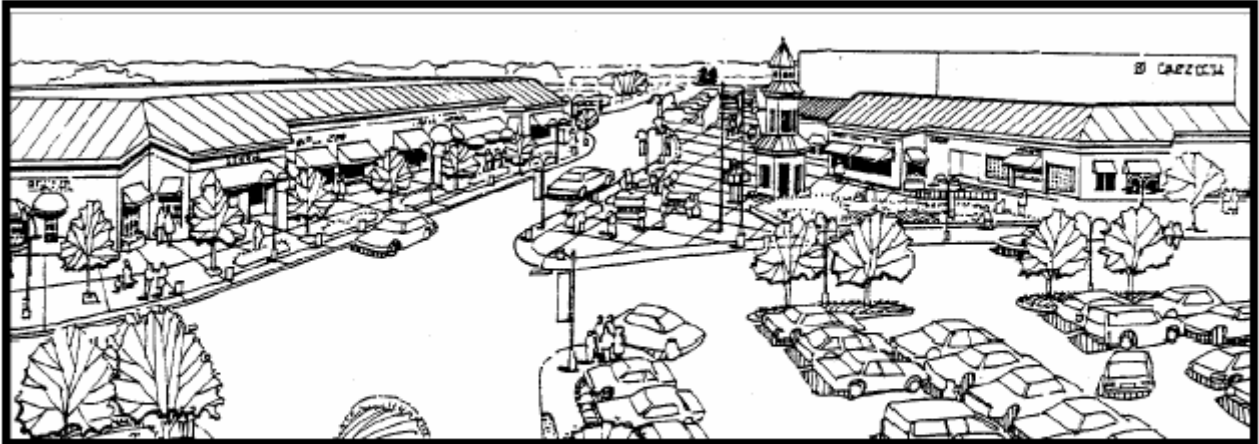
benches, flower beds, ground covers, or other such materials for no less than fifty (50) percent of their length.

3. Sidewalks, no less than five (5) feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
4. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.

#### **F. Central Features and Community Spaces**

**Guideline:** Buildings should offer attractive and inviting pedestrian scale features, spaces and amenities. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. Bus stops and drop-off/pick-up points should be considered as integral parts of the configuration. Valparaiso is currently developing a public transit system that is anticipated to come on line in the later half of 2005. Pedestrian ways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces. The features and spaces should enhance the building and the center as integral parts of the community fabric.

**Standard:** Each retail center consisting of multiple buildings shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkways, outdoor play area, kiosk area, water feature, clock tower, steeple, or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the Plan Commission, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape. This area shall be adequately linked to the internal pedestrian link way.



Example of a center with numerous special features and community spaces.

(Drawing courtesy of Fort Collins, Colorado)

## G. Signage

**Guideline:** Signs should be consistent within a development. It is important that the site not be littered with individual signs for each tenant. Most retail centers and stand-alone large retail stores will be along arterial roads and at gateway intersections. Signage should not be distracting to passers by.

**Standard:** Large retail centers consisting of multiple buildings (3 or more) subject to these guidelines may have one multi-tenant monument type ground sign not taller than fifteen (15) feet per frontage. The multi-tenant sign(s) shall provide space for all major tenants of the center and are subject to Section 909 of the *Sign Ordinance*. Stand-alone retail stores (not in a retail center) are limited to a monument type ground sign at a maximum height of six (6) feet. A masonry base is preferred for these signs. Off premise signage (billboards, portable signs, ect.) shall be prohibited. Outlot signage shall be limited to six (6) foot tall monument style signage and be centered on the outlot property.

## H. Landscaping

**Guideline:** Landscaping should be used along public streets and right of way to soften the look of large retail developments and stand-alone stores. Landscaping that is attractive will provide a break in the development of large retail buildings and screening for parking lots along heavily traveled retail corridors.

### Standards:

#### 1. LANDSCAPE PLAN

A landscape plan at a scale of not greater than 1:50 scale shall be prepared by a landscape architect registered licensed and registered with the State of Indiana. Landscape plans shall denote planting locations, numbers, and both common and scientific names for all planting

materials. Contact information for the landscape architect shall be provided as well as that of the property owner.

## 2. PARKING LOT PERIMETER LANDSCAPING

- a. All parking lot perimeter areas shall be planted with at least one deciduous tree 2 ½" caliper diameter upon planting per 40 linear feet of landscape planting area.
- b. Outlots shall be surrounded with perimeter landscaping to separate them from the remaining primary lot development subject to the above standard. Outlots shall provide for landscaping areas or planting strips to physically separate them from the larger development except where entry/access points are necessary.

## 3. INTERIOR PARKING LOT LANDSCAPING

- a. A minimum of 15% of the parking area shall be dedicated to the interior parking lot landscaping consisting of planting islands, peninsulas, ribbons, or corner areas and entranceways. Sidewalks may be placed in the islands to connect with other sidewalks in the development but shall not count toward the interior landscaping requirement. Parking area is determined by drawing a square or similar shape around the outside edges of the parking area surface. Plant material shall be installed so as to maintain clear sight lines and avoid contact with vehicles for an area between three and eight feet in height. Outlots shall be subject to the same interior parking lot planting standard.
- b. For parking lots with central entry drives of 300 spaces or more, landscaping shall be provided on both sides of the main entryway to the property using trees with at least a 3" caliper diameter upon planting every fifty (50) feet along the length of driveways. This area shall not count toward the required 15% interior parking lot landscaping standard.
- c. For parking areas with multiple parking bays with at least 300 spaces, an island or peninsula that is a minimum of six (6) feet in width shall be installed for each ten (10) spaces in the parking bay. Ribbons of landscaping at least 6 feet in width extending the length of the parking bay with a least one break for passage of cross traffic shall be permitted in lieu of separate landscaping islands. There shall be one deciduous tree of at least 2 ½ inches in caliper diameter upon planting for every 180 square feet of landscaping area.

## 4. LANDSCAPING BETWEEN SITES

Landscaping strips at least ten (10) feet in width shall be provided between all stand-alone retail establishments or retail centers subject to a planting standard of one tree of at least two and one half inches (2 ½") in caliper diameter upon planting per forty (40) linear feet of landscape strip. When a strip a large retail establishment already exists on an adjacent parcel, the developer shall provide a grass area or landscape material equal to the difference between that provided and the ten feet required on the subject property.

## 5. LANDSCAPING ALONG BUILDINGS

- a. A landscape strip of no less than six (6) feet in width shall be installed for a distance of at least 20% of the building length for a single building tenant. One tree shall be planted for each 180 square feet of landscape area. Shrubs or other woody plants shall occupy 50% of the length of this landscaping strip. The use of planting areas or planters of at least 150 square feet each on both sides of any primary customer entrance/exit and points at or near the corners of the building may be permitted in lieu of the above requirement.
- b. For multiple tenant buildings, planters or planting areas as described above shall be provided at the entrance to all major tenant stores. If major tenants do not exist, at least 20% of the entrances to tenant spaces shall comply with this requirement.

## 6. LANDSCAPING ADJACENT TO RIGHTS OF WAY

For a multi-building commercial center, a thirty (30) foot landscape buffer is required along all public streets and areas adjacent to residential uses. This buffer should be a mix of landscaping, deciduous trees, and evergreens, of which twenty (20) percent must be trees. These areas shall be planted at a rate of one tree at least two and one-half inches (2 ½") in caliper diameter upon planting per forty (40) linear feet of landscape strip. A stand-alone retail store (not in a center) and any outlot portion of a development shall provide a twenty (20) foot landscape buffer planted according to the same standard.

## 7. YARD LANDSCAPING STANDARDS

Exclusive of the above planting requirements, the following landscaping standards shall apply to open areas of lawn or manicured portions of sites not occupied by landscape islands, planting beds, or areas of groundcover, mulch or non-vegetative cover:

At least one tree of not less than two inches (2") in caliper diameter upon planting shall be installed per four thousand (4,000) square feet of open yard area.

## 8. GENERAL STANDARDS

- a. All signs shall be located in a landscape area not less than 100 square feet in area.
- b. All light standards and poles shall be located within a landscape island.
- c. All landscape strips shall be planted with trees, shrubs, and groundcover. All landscaping shall be maintained in the condition it was installed.
- d. The minimum planting standards for all landscaping materials shall be the following unless otherwise noted:
  - i. -Deciduous Trees- 2 ½" c.d.
  - ii. -Ornamental Tress 2" c.d.
  - iii. -Coniferous Trees 6' in height
  - iv. -Shrubs, Woody Plants 24" minimum height or 5-gallon containers
  - v. -Perennials 1gallon containers
  - vi. -Annuals 12" spacing
- e. Boulders, rocks, or mulch (including stone, pebbles, sand, or bark) limited to walks, paths, seating areas, planting beds and around plants. When used in

planting beds or around individual trees shall not exceed twenty percent (20%) of the total square footage of the landscaped area.

## 9. LANDSCAPE MATERIAL STANDARDS

- a. The following is a list of suggested and prohibited landscape materials for use within landscape areas for large commercial establishments:

- i. Suggested Trees and Shrubs:

1. See attached appendix

- ii. Prohibited Trees and Shrubs:

1. Norway maple, *Acer platanoides* (this includes the red leafed ones like crimson king) Very invasive.
    2. Ailanthus (tree of heaven) Extremely invasive
    3. Ornamental pears. *Pyrus sp.* Invasive
    4. Golden rain tree. Invasive
    5. Purple loostrike. Invasive and illegal in Indiana
    6. Russian (Tatarian) Honeysuckle, *Lonicera tatarica*. Extremely invasive
    7. Black (Austrian) pine, very susceptible to diplodia blight.
    8. All Ash Trees, *Fraxinus sp.* Very susceptible to the emerald ash borer.

## I. Lighting

**Guideline:** Lighting should provide a sense of safety to guests without having a negative affect on neighboring properties. Pedestrian level lighting is encouraged along sidewalks to enhance the experience.

**Standards:**

1. Lighting must to be consistent, appropriate, and compliment the primary structures on the site.
2. Cobra lighting shall be prohibited.
3. Decorative lighting or bollards shall be provided throughout all pedestrian areas of the site including in front of all buildings along walkways.
4. The source of lighting shall not be directly visible to vehicular traffic on public streets.
5. The use of wall packs shall be prohibited on the front façade and sides of buildings and shall be limited to service loading and employee entry areas not visible from rights-of-way, access drives or customer parking areas.
6. All exterior lighting shall be designed in a consistent and coordinated manner for the entire site.
7. All exterior lighting shall be shielded to avoid casting light above three-tenths (0.3) foot-candles or glare upon any property in a residentially zoned district or used for residential purposes.

8. All exterior lighting shall be shielded to avoid casting light above five-tenths (0.5) foot-candles or glare upon any non-residential adjacent property.
9. Flood or area site lighting of high intensity whose light source is visible from off-site shall be prohibited. Specialized or decorative parking, site and pedestrian lighting with a visible light source is permitted with the approval of the Planning Department.
10. All lighting structures within a property or planned development shall be uniform design and materials. Parking lot and streetlights shall also be of uniform height.
11. Lighting poles and structures shall be located within landscaped areas where possible.
12. All exterior lighting shall be shielded so as not to cast direct light on street right-of-ways or adjacent properties.
13. Ceiling lights in gas pump island canopies shall be recessed.

## **J. Drainage Facilities Management**

**Guidelines: All LARGE RETAIL ESTABLISHMENT sites shall provide drainage (runoff) management such that lands adjacent, or those downstream from the site, realize no adverse effects. Adverse effects may be related to runoff rate, volume and/or quality.**

**Standards:**

1. Runoff Rates: Standards for general drainage and runoff discharge rate management issues are found in the “Specifications and Standards for Acceptance of Municipal Improvements” and Part II, Article VI, “Requirements for Storm Drainage and Floodplains” in the Zoning Ordinance.

In some locations characteristics or deficiencies of the receiving watercourse may require that discharge rates from the LARGE RETAIL ESTABLISHMENT site be reduced below those in the ordinances or standards referenced above.

2. Runoff Volumes: For receiving watercourses sensitive to prolonged flows of runoff (volume related), the discharge rates shall be reduced to a level such that the volume of runoff to be discharged does not negatively impact the watercourse.
3. Runoff Quality: Runoff from roofs and paved parking areas typically contains a number of pollutants resulting from air borne deposition, automobile fluid leakage, animal wastes, trash, etc. Runoff management practices shall be designed to reduce the amounts of such pollutants to more acceptable levels before the runoff is discharged to the receiving watercourse.
4. Detention Basins: Basins shall be designed to maximize the capture of pollutants by creating appropriate fore-bays, configurations, flooding depths, first flush storage volumes, and vegetation.
5. Vegetated Swales: Vegetated swales shall be used to convey runoff in lieu of conventional storm sewers. Flow velocities shall be low enough that larger pollutant particles can drop out of the flow. Appropriate vegetation shall be used to slow the flows, capture pollutants and to withstand the periodic inundations. Vegetated swales may be components of the landscaping requirements for the site.
6. Trees: Trees used in the landscape areas, along swales, around the basins and in the landscape islands shall be selected to provide shade and to break the fall of rain. Shade trees shall be emphasized in the landscape islands in the parking lots.

7. Inlets: Where inlet/catch basin structures are permitted they shall be constructed with the outlet pipe trapped to capture floatable trash, debris and greases and oils.
8. "Separators" et al: There are various types of manufactured units, normally factory built, to be placed in line with runoff conveyances to capture oils, greases, some hydrocarbons, trash and debris in the runoff. Properly sized separators shall be utilized in series with other quality management practices to clean and polish the runoff before discharge to the receiving watercourse.
9. Pollutant Removal Standards: Runoff quality practices used on the LARGE RETAIL ESTABLISHMENT site shall be selected with intent of targeting the EPA benchmark pollutant levels. The benchmark levels are as stated in EPA's Final Reinsurance of National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities, October 30, 2000.
10. Aesthetics: Developers are encouraged to feature drainage components as attractive elements and focus points of the developed site. Detention basins and swales shall be designed with an eye to aesthetics. Basins and swales shall have curvilinear, non-uniform banks, with varying slopes to appear more a natural feature of the site than an "engineered" structure.
11. Maintenance: The developer shall provide an operation and maintenance plan for all drainage components. Provisions shall be made for the perpetuation of the necessary operation and maintenance.

#### **Section 3850 Abandonment of Large retail establishments – Vacancy/Relocation**

**Guideline:** As seen across the nation as well as in the Valparaiso community, large retail establishments can become vacant, which often results in the building(s) deteriorating, becoming unattractive, and ultimately discouraging future growth in the surrounding area. This phenomenon is not only accompanied by aesthetic concerns due their always-prominent locations, but may have additional negative secondary effects and perceptions as well. Part of the reason for these occurrences is the disposable nature of the construction of large retail buildings. The life expectancy of these stand-alone buildings and larger centers is decreasing with time. As a result of this, it is in the best interest of the City to safeguard against the opportunity for these sites to become a concern when they are vacated. The following standards serve to limit the situations described above. A vacant, yet buildable site, or one in which the owner is required to actively and aggressively market such for reuse or redevelopment is better for Valparaiso for many reasons, and the standards below seek to preserve and protect the interests of Valparaiso.

#### **Standards:**

**In the event that a large retail establishment becomes vacant the owner of such property shall meet with the city and file a plan of action for re-use of such facility. This plan of action shall address both the maintenance of the existing facility, re-use of the property by the existing owner and the active remarketing of such facility or the reuse of the property by its current owner. This plan may or may not include the redevelopment of the site to make it compatible with adaptive reuse. The reuse plan will require that the owner file monthly reports (Building Name Reuse Activity Plan Activities) with the city that detail;**

- 1) Listing agents currently under contract. Listing agent data will entail agency, primary contact and all contact information. The length of term of the listing will also be included in the report.

- 2) Special Events. Events such as open houses, facility tours, etc. should be included in the report.
- 3) Inquiries into the property. Inquiries will include name, company name, address and phone number of the prospect.
- 4) Maintenance activities to prevent blight and decay.
- 5) Improvement activities for adaptive reuse.

**This plan will become a binding contract with the city. Failure to post this plan within 60 days of closing of the facility with the city shall place the owners in default of this ordinance. At such time the city will provide notice of their ability to condemn and demolish such property, the cost of which will be the responsibility of the current owner.**  
**Determination of Abandonment.**

**In the event that the monthly reuse reports are not filed with the city, or in the event that the city determines that the information in the report is fraudulent, the city may, at its discretion, determine the property to be abandoned. The city will provide notice to the property owner(s) that the property is determined to be in such status and provide for a 30 day period during which the property owner can return such property to active listing status. If at the end of this 30 day period the property has not been returned to active status, the city shall notify the property owner of their intent to begin condemnation proceedings on the property.**

**Demolition.**

**If, after 30 days from the receipt of such notice of intent to begin condemnation proceedings there has been no or insufficient activity on the part of building owner(s) to actively promote the reuse of the facility, the city may, at their discretion, initiate activities to demolish the facility as well as any parking areas and accessories thereto.**

## Recommended big box Trees for Valparaiso

### Maple

|                   |                 |    |
|-------------------|-----------------|----|
| Acer buergerianum | Trident maple   | pl |
| A. campestre      | Hedge maple     | pl |
| A. ginnala        | Amur maple      | pl |
| A. griseum        | Paperbark maple | pl |
| A. pensylvanicum  | Moosewood       |    |
| A. rubrum         | Red maple       | w  |
| A. saccharum      | Sugar maple     |    |

- Norway maple is not recommended for our ecosystem. The Dept of Natural Resources has deemed this tree to be an invasive non-native plant. Acer platananoides All other maples listed will give an amazing fall color display.

### Serviceberry

|                     |                        |              |
|---------------------|------------------------|--------------|
| Amelanchier arborea | Downy serviceberry     | pt shade: pl |
| A. canadensis       | Shadbush               | pt shade: pl |
| A. grandiflora      | Apple serviceberry     | pt shade: pl |
| A. laevis           | Allegheny serviceberry |              |

\*Amelanchier are great for wildlife, spring flowers, and fall color. Single trunk tree forms are now available

### Buckeye

|                  |                |          |
|------------------|----------------|----------|
| Aesculus. flava  | Yellow buckeye | pt shade |
| A. glabra        | Ohio buckeye   | pt shade |
| A. hippocastanum | Horsechestnut  | pt shade |

- Buckeyes are among the largest flowering trees native to Indiana.

### Alder

|               |                |       |
|---------------|----------------|-------|
| Alnus viridis | Green Alder    | w: pl |
| A. glutinosa  | Black Alder    | w: pl |
| A. rugosa     | Speckled Alder | w pl  |

\*Good tree for a wet site or one prone to flooding.

### Birch

|               |             |                        |
|---------------|-------------|------------------------|
| Betula nigra  | River birch | w                      |
| B. papyrifera | Paper birch | keep moist but not wet |

\*European and Japanese birch are not recommended as they are very susceptible to bronze birch borer. Betula pendula and Betula japonica

### Hornbeam

|                      |                         |               |
|----------------------|-------------------------|---------------|
| Carpinus caroliniana | Blue beech(muscle wood) | pl damp shade |
|----------------------|-------------------------|---------------|

\*Fantastic native understory tree with interesting bark and wonderful fall color.

### Hickory

|                   |                   |  |
|-------------------|-------------------|--|
| Carya cordiformis | Bitternut hickory |  |
| C. glabra         | Pignut hickory    |  |
| C. illinoensis    | Pecan             |  |
| C. ovata          | Shagbark hickory  |  |

\*Hickorys and a lot of other underused native trees are hard to find in the nursery trade due to lack of demand. Ask your local nursery to order trees in the early fall and reserve them for spring.

### **Hackberry**

Celtis occidentalis                      common Hackberry

\*Hackberry is a big native tree with corky bark and berries that attract birds and other wildlife.

### **Redbud**

Cercis canadensis                      Eastern redbud                      pl pt shade to shade

\*Protect from damaging winter winds and too much direct sun.

### **Dogwood**

Cornus alternifolia                      Pagoda dogwood                      pl pt shade to shade

C. florida                      Flowering dogwood                      pl pt shade to shade

C. mas                      Cornelian cherry                      pl pt shade

\*Cornus mas has wonderful early yellow blossoms. Protect all dogwoods from lots of direct sun and winter wind.

### **Hawthorn Crataegus**

Crataegus species                      Hawthorn                      pl sun to shade

\*Hawthorns are versatile and great for spring flowers and winter berries, substitute a hawthorn for that crabapple that you are thinking of planting. Crabapples are both overused and very susceptible to a number of diseases. We do not recommend planting crabapples.

### **Beech**

Fagus grandiflora                      American beech                      pt shade

F. sylvatica                      European beech                      pt shade

\*Beech are, ultimately, huge trees native to moist woodlands and it is not recommended to plant them in full sun. Please do not carve in the bark of these magnificent trees. If you have ever done this, go back to that beech, apologize and give him a hug.

### **Ginkgo**

Ginkgo Biloba                      Ginkgo

\*Big tough tree from East Asia. Make certain that the Ginkgo you buy is a male as the female of the species produces a fruit that smells very offensive.

### **Honey locust**

Gleditsia triacanthos                      Honey locust

\*Good street tree but a little over-used. Many variations (not more than 10% in any tree planting)

### **Kentucky Coffee Tree**

Gymnocladus dioica                      Kentucky Coffee Tree

\*Big under-used tree native to Indiana. Disease and drought resistant. Plant instead of locust and ash.

### **Witch hazel**

Hamamelis virginiana                      Common witch-hazel                      pl part shade

H. vernalis                      Vernal witch-hazel                      pl part shade  
\*Small native under-story tree. Virginiana blooms in fall and vernalis blooms in early spring.

### **Tulip tree**

Liriodendron tulipifera              Tulip tree

\*State tree of Indiana. Big tree that gets its name from tulip like flowers borne in early summer.

### **Black Gum**

Nyssa sylvatica                      Black gum, Tupelo                      damp acid soil

\*Ultimately large shade tree with reddish orange fall color. Likes moist well drained soil.

### **Ironwood**

Ostrya virginiana                      American hophornbeam                      part shade

\*Fantastic bark on mature trees with catkin-like flowers in summer. Likes shade

### **Sycamore**

Platanus occidentalis                      Sycamore                      sun to shade damp

Platanus acerifolia                      London planetree

\*Very large majestic tree with peeling green, white and gray bark. Native habitat is creek bottoms and riverbeds. Plant in a moist spot.

### **Aspen**

Populus tremuloides                      Quaking aspen

\*One of the most widely scattered trees in North America. White bark and great orange fall color.

### **Cherry**

Prunus serotina                      Wild black cherry

\*Big native tree with flaky black bark, white flowers in spring and wildlife attracting berries.

### **Oak**

|                  |                  |      |
|------------------|------------------|------|
| Quercus alba     | White oak        |      |
| Q. bicolor       | Swamp white oak  | damp |
| Q. coccinea      | Scarlet oak      |      |
| Q. imbricaria    | Shingle oak      |      |
| Q. macrocarpa    | Burr oak         |      |
| Q. muehlenbergii | Chinkapin oak    |      |
| Q. prinus        | Chestnut oak     |      |
| Q. robur         | English oak      |      |
| Q. rubra         | Northern red oak |      |
| Q. shumardii     | Shumard oak      |      |
| Q. velutina      | Black oak        |      |

\*Big, tough hardwood trees with variable fall color depending on the species. Acorns provide food for wildlife.

### Linden

Tilia americana                      American basswood

Tilia cordata                          European linden

\*Medium to large trees with fragrant flowers in early summer.

\*w denotes tree suitable for wet site

\*pl denotes tree suitable for under utility lines

\*Ash was not included because of the infamous Emerald Ash Borer. This exotic bug was accidentally imported from China in the wood of a shipping crate. It surfaced in the Detroit area and ravaged over seven million of our native ash trees. It is on the move and has been found in Northeast Indiana. Please hold off on planting ash trees until further notice. We would hate for you to plant a tree, only to have it die a few years later.

\*Pear trees were also excluded from the list. Pears are beautiful trees, however, due to their narrow branching habits, they tend to become damaged in storms rather easily.

\*Crabapples are very susceptible to disease. They also sucker very aggressively and, more often than not, are either not taken care of or improperly “pruned” to make room for the lawnmower. Improper pruning of all trees is not only unsightly, but it does not allow the tree to heal properly opening it up to disease and borers.

**Recommended Shrubs for commercial landscaping**

**Bayberry, *Myrica pensylvanica* , semi evergreen**

**Mockorange, *Philadelphus spp***

**Lilac, *Syringa spp***

**Rugosa rose**

**Grow-lo sumac, Dwarf Fragrant Sumac, *Rhus aromatica***

**Smooth Sumac, *Rhus glabra*, Great for heavy dry compacted clay soils**

**Virginia Sweetspire, *Itea virginica*, slightly acid and moist soils**

**Chokeberry, *Aronia spp.***

**Forsythia**

**Summersweet**

**Flowering Quince, *Chaemomeles speciosa***

**Viburnums various**

**Whitch Hazel, *Hamamelis virginiana***

**Juniper various**

**Taxus**

**Smooth Hydrangea, *Hydrangea arborescens***

**Oak Leaf Hydrangea, *Hydrangea quercifolia***

**Part IV**  
**Article XXXIX**  
**Eastgate District Overlay Standards**

**Section 3900 Definitions**

**Building:** means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property, including detached garages and permanent canopy structures.

**Building Addition:** means a part added to a building, either by being built so as to form one architectural whole with it, or by being joined with it in some way, as by a passage, and so that one is a necessary adjunct or appurtenance of the other or so that both constitute the same building.

**Building Frontage:** “Building frontage” means the side, or facade, of a building closest to and most nearly parallel to an abutting street.

**Building Frontage, Primary:** “Primary building frontage” means a building frontage that abuts a street listed as a primary street in the applicable Overlay Areas subsection of this chapter

**Building Frontage, Secondary:** “Secondary building frontage” means a building frontage that abuts an alley or a street not listed as a primary street in the applicable Overlay Areas subsection.

**Building Rear:** “Building rear” means the wall or plane opposite the primary building frontage. For a building on a corner lot, the building rear is the wall or plane opposite the wall or plane containing the principal building entrance.

**Building Setback Line:** means the line, beyond which no building or parts thereof shall project, except as otherwise provided in this ordinance.

**Conditional Use:** Conditional uses are those uses that, because of special requirements or characteristics, may be allowed in a particular zoning district only after review by planning commission and granting of conditional use approval imposing such conditions as necessary to make the use compatible with other uses permitted in the same zone or vicinity.

**District:** means a portion of the territory of the City of Valparaiso, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

**Driveway:** is any access corridor leading from a public right-of-way to a parking lot, aisle, parking circulation area, garage, and off-street parking space or loading space. The division of traffic engineering and parking limits points of driveway access from residentially zoned lots abutting both an improved alley and street.

**Drive-Thru:** “Drive-thru” means a building or portion thereof that, by design, permits customers to receive goods or services while remaining in a motor vehicle.

**Easement:** means a grant of property by a property owner to the use of land by the public, a corporation, or persons for specific purposes as the construction of utilities, drainage ways, roadways, or public parking.

**EOD:** Eastgate Overlay District, (EOD)

**Primary Facade:** the exterior face of a building which is the architectural front that faces a primary street, sometimes distinguished from the other faces by elaboration of architectural or ornamental details.

**Gross Floor Area:** means the total floor area of all main and accessory buildings, whether closed or unenclosed, measured from the exterior building face, including storage areas but excluding interior areas used for parking and loading and access thereto.

**Interior Landscaping:** All greenspace within the curb of the outer most perimeter of the paved parking area.

**Overlay District:** means a district established by ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.

**Parapet:** A low guarding wall at any point of sudden drop, as at the edge of a terrace, roof, battlement, balcony, etc.

**Parking Lot:** “Parking lot” means any off-street public or private area, under or outside of a building or structure, designed and used for the temporary storage of motor vehicles.

**Principal Building:** “Principal building” means a building in which the principal use of the property is conducted. All parcels containing at least one building shall be deemed to have a principal building. A parcel may contain more than one principal building.

**Public-Private Setback Zone:** “Public-private setback zone” means an area between a principal building and a public street right-of-way line utilized for seating, outdoor dining, public art and/or other pedestrian amenities. Which is maintained by the property owner but granted to the city for improvements.

**Reconstruction:** “Reconstruction” means the replacement or rebuilding of a building, premises or structure.

**Right of Way:** means a strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, water line, sanitary sewer, and/or other public utility or facility.

**Setback:** “Setback” means the distance between a lot line or right-of-way line and a building, structure, defined outdoor area serving as the primary activity, parking lot, or vehicular circulation area.

**Site Triangle:** means the triangular area formed by a diagonal line connecting two points located on intersecting street right of way lines (or right of way line and the curb or edge of driveway).

**Street frontage:** is defined as the width or depth of the lot or development site along any abutting public right-of-way.

**Primary Street List:** Lincolnway, Laporte Ave, Roosevelt Ave, Sturdy Rd, University Village Rd.

## **Section 3905 Eastgate Zoning Overlay Area**

A parcel of land in both the Southeast Quarter (SE ¼) and the Southwest Quarter (SW ¼) of Section 19, Township 35 North, Range 5 West of the Second Principal Meridian, and in the Southeast Quarter (SE ¼) of Section 24, Township 35

North, Range 6 west of the Second Principle Meridian, the parcel located in the City of Valparaiso, County of Porter, Indiana, and described as:

Beginning at the centerline intersection of Lincolnway (State Road 130) with LaPorte Avenue; thence westerly along the centerline of said LaPorte Avenue and the westerly prolongation of said centerline to the west line of Garfield Avenue; thence north or south, as required, along said west line to the SE corner of lot 5 in DeWolf's Subdivision of Block 32 in Woodhull's Addition to the Town (now City) of Valparaiso; thence west along the south lines of said lot 5 and lot 6 in said subdivision to the SW corner of said lot 6; thence north along the west line of said lot 6 and the northerly prolongation of said west line to the north line of said Lincolnway and the south line of lot 2 in Block 31 of said Woodhull's Addition; thence west along said south line of lot 2 to the SW corner of said lot 2; thence north along the west line of said lot 2 to the south line of the east-west alley in said Block 31; thence east along said south line, and the easterly prolongation of said south line to the east line of said Garfield Avenue and the west line of lot 1 in Brown's Subdivision; thence north along said west line to the midpoint of said west line; thence easterly to the midpoint of the west line of lot 10 in said Brown's Subdivision; thence north along said west line and the northerly prolongation of said west line to the centerline of Jefferson Street; thence east along said centerline to the centerline of Roosevelt Road; thence north along said centerline to a point directly west of the NW corner of lot 5 in Mitzner's Addition to the City of Valparaiso, Indiana; thence east to said NW corner of lot 5; thence east along the north line of said lot 5 to the NE corner of said lot 5 and the east line of said Mitzner's Addition; thence north along said east line to an intersection with the westerly prolongation of the south line of Meyer's Addition to the City of Valparaiso; thence easterly along said prolonged line to the SW corner of said Meyer's Addition; thence east 482.63 feet along said south line of Meyer's Addition to the SE corner of lot 6 in said Meyer's Addition; thence south 25.0 feet along the southerly prolongation of the east line of said lot 6; thence east 100.0 feet to a point on the west line of Caryer's Addition to the City of Valparaiso, said point 200.0 feet south of the north line of said SW  $\frac{1}{4}$ , Section 19; thence south along said west line to the SW corner of said Caryer's Addition; thence east along the south line of said Caryer's Addition, and the easterly prolongation of said south line to the centerline of Marks Road; thence north along said centerline to a point 170 feet south of the intersection of said centerline with the centerline of Chicago Street from the West; thence easterly 295 feet, more-or-less, to a point on the west line of a lot described in a document recorded in Deed Record 406, Page 566, in the Porter County Recorder's Office, said point being 348.3 feet west of the east line of said SW  $\frac{1}{4}$  Section 19; thence south parallel with said east line to the SW corner of a lot described in a document recorded as instrument number 01-203700 in said Recorder's Office; thence east along the south line of said lot, 348.3 feet to said east line, SW  $\frac{1}{4}$  and the west line of Kaplan's Subdivision; thence north or south as required to a point on said west line that is on the westerly prolongation of the north line of lot 8 in said Kaplan's Subdivision; thence east along said prolongation and along said north line to the east line of said Kaplan's Subdivision; thence south along said east line, and the southerly prolongation of said east line to the south line of said LaPorte Avenue; thence northeasterly along said south line to an intersection with the right-of-way of the former State Road 49, said point of intersection also being the north corner of a tract containing a Dairy Queen Store; thence south 417.16 feet along the east line of said Dairy Queen tract to the SE corner of said tract; thence continuing on the southerly prolongation of the preceding course to the centerline of Knode Creek; thence easterly and northeasterly along said centerline to the west line of Streamwood – Unit 1; thence south along said west line to the south line of said SE  $\frac{1}{4}$ , Section 19; thence west along said south line to the centerline of Sturdy Road; thence north along said centerline to its intersection with said centerline of Lincolnway; thence northerly and northwesterly along said Lincolnway centerline to its intersection with said centerline of LaPorte Avenue and the point of beginning.

The purpose of the Eastgate Overlay District (EOD) is to regulate development in the defined 'Eastgate District' in order to establish harmonious definition between buildings, open space, parking, vehicular traffic and pedestrian movement throughout the corridor. This will be accomplished by providing clear linkages, safe routes, spatial transparency, even traffic/pedestrian flow, architectural integrity and a "human scale" feeling to the district. This document is meant to

encourage the best design of improvements to the built environment establishing a corridor that is consistent and contextual.

Successful corridors are typically characterized by pedestrian-oriented architecture, building setbacks, rear and side loaded parking lots, commercial land uses, street systems that incorporate alleys, and shared parking. The provisions of the EOD are intended to encourage pedestrian-scaled development featuring retail display windows, reduced building setbacks, and other pedestrian-oriented site design elements. Where applied, EOD standards generally require full compliance for new construction, partial compliance for exterior building additions/alterations and minimal or no compliance for routine maintenance and the replacement in-kind of materials.

IC 36-7-4-1401.5

Power of legislative body to designate zoning districts where plan required Sec. 1401.5.

- (a) A legislative body may, in a zoning ordinance, designate zoning districts in which a development plan is required. If a zoning district is designated under this section, the plan commission must approve or disapprove a development plan under this series for real property within the zoning district.
- (b) The plan commission has exclusive authority to approve or disapprove a development plan for real property located within the plan commission's jurisdiction.
- (c) Designation by the legislative body of a zoning district where a development plan is required is a legislative act, and is not subject to review by certiorari under section 1016 of this chapter.

As added by P.L.320-1995, SEC.24.

### **Section 3910 Goals of the Eastgate District Overlay**

To facilitate the redevelopment of the Eastgate District into mixed use centers that reflects the vision and public consensus of the Eastgate Master Plan.

To promote the use of quality and long lasting building materials, as well as building design, landscaping and site designs.

To promote the creation of urban places which are oriented to pedestrians, thereby promoting citizen security and social interaction.

To encourage shared parking facilities, rather than separate off-street parking facilities for each individual use.

To expand the City of Valparaiso's tax base by facilitating quality reinvestment in the Eastgate District.

To integrate Eastgate businesses into the fabric of the City through connections with the street and sidewalk network, compatibility in design and architecture, and well designed and effective screening and buffering.

To enhance the local businesses by providing cost effective solutions for the upgrading and renovations of existing businesses and improving the aesthetics of the corridor to promote new and repeat business.

### **Section 3915 Applicability and Extent**

- A. On a commercially-zoned, commercially-used, or multi-family residential property within the designated EOD area:
1. New placement, new construction, or new reconstruction of a principal building is subject to all standards and requirements of this Overlay.
  2. Any expansion of an existing principal building's gross floor area of less than 50% requires the front façade to be renovated in compliance with the Architectural Design Standards for Aesthetic Improvements of Existing Buildings. Upon the initial expansion of the building a sum will be totaled for that parcel. Once the building has expanded by 50% or greater (whether over a series of expansions or from an initial expansion) the building will be subject to meet all standards and requirements of this Overlay.
  3. The expansion of a principal building's gross floor area by 50% or more requires the entire building and site to meet all standards and requirements of this Overlay.
  4. Any new extension or expansion of a principal building façade is subject to all Architectural Design Standards for New Construction of this Overlay. (Subject to the approval of the Planning Commission)
  5. Any exterior alteration of a primary building frontage is subject to full EOD requirements for Architectural Design Standards for Aesthetic Improvements of Existing Buildings.
  6. Existing building and site improvements may remain in their current condition as long as no additions are added to the existing building.
  7. Use of available economic incentives will require conformance with the Architectural Design Standards for New Construction and/or Architectural Design Standards for Aesthetic Improvements of Existing Buildings.
- B. The construction or installation of parking lots, fences and other accessory structures on commercially-zoned, commercially-used, or residential properties shall comply with the EOD.
- C. The installation of new on-site lighting shall comply with Valparaiso Code and EOD.
- D. The standards and requirements of this overlay may be waived for buildings officially designated as historic if they would result in an unacceptable modification of the original, historic appearance of the building as determined by the Planning Commission.
- E. Routine maintenance and in-kind replacement of materials are exempt from the standards and requirements of this Overlay.
- F. Any modification of building facades (window replacement, material change, etc.) will require an ILP (Improvement Location Permit). Any modification that includes more than 25% of the facade will be required to comply with the Architectural Design Standards for Aesthetic Improvements of Existing Buildings. Any modification to the site by 50% or greater shall comply to all site related standards of this Overlay.
- G. Any expansion of an commercial use housed within an existing residential or historical structure shall conform to the intent of the Overlay Standards. Planning Commission can waive any standards to allow for architectural consistency with the existing structure.

- H. Cross-easement for access shared parking shall be granted by property owners for retail patrons of the Eastgate District.

The standards contained in the EOD are in addition to the regulations of the underlying zoning districts. Where the provisions of this Chapter conflict with those of the underlying zoning district or other provisions of this zoning code, the Eastgate Overlay District applies, when the overlay district code is silent, the zoning code applies.

### **Section 3920 Setbacks**

- A. Along a primary street, any new building shall be constructed a maximum of twenty-five (25) feet, plus or minus two (2) feet from the curb line, and a minimum of fifteen (15) from the curb line. In no case shall the building be constructed inside the right-of-way line. An additional fifteen (15) feet of right of way shall be granted to the city by the property owner where parallel parking is planned in future widening of primary streets.
- B. Any new corner lot building shall be constructed a minimum of ten (10) feet and a maximum of fifteen (15) feet from the curb line of the secondary street. The building shall be constructed a maximum of twenty-five (25) feet, plus or minus two (2) feet from the curb line and a minimum of fifteen (15) from the curb line of the primary street. The building shall not be constructed inside the right-of-way line in either instance.
- C. A portion (no more than 2/3) of any new building frontage setback can be increased from the setback line to a maximum of an additional ten (10) feet if the setback area is surfaced with brick, stone or concrete and provides an outdoor display or amenity such as dining. See diagrams above.
- D. Side yard building setbacks shall be a minimum of five (5) feet. A 0' building setback shall be permitted if an adjacent building is connected to an existing building provided the City of Valparaiso Fire Code is met.
- E. Any new buildings shall be constructed at a minimum ten (10) foot setback from each other.
- F. The outdoor display for the sale or leasing of merchandise or equipment is subject to a ten (10) foot setback from the curb line and may not be located within the right-of-way for pedestrian and vehicular safety.

### **Section 3925 Accessibility**

- A. Pedestrian Easement: A minimum ten (10) foot, (5) feet of public sidewalk (measured from back of curb) and (5) feet wide of streetscape, corridor shall be provided along each primary street (excluding alleys) and extending the full length of the frontage and connecting to the sidewalks on adjacent properties.
- B. A pedestrian walkway shall be provided from the public sidewalk to each building entrance.

- C. All buildings along a primary street shall have their main entry along the primary frontage.
- D. More than one (1) curb cut along a primary street (per each parcel) will not be permitted unless Planning Commission determines that a new curb cut is the only means available to provide vehicular access to the site and that the proposed curb cut location meets all city standards and requirements.
- E. A pedestrian walkway shall be provided from a parking lot to a building entrance.
- F. Access points, curb cuts, shared driveways, parking layouts, and adjustments to the spacing requirements denoted in the EOD shall receive approval from the Planning Commission.
- G. A minimum of one hundred eighty-five (185) feet shall be provided between full service curb cuts on separate lots or to public streets, as measured from pavement edge to pavement edge.
- H. Existing curb cuts not conforming to the 185' minimum spacing may remain on isolated lots (subject to the approval of the Planning Commission and the City Engineer.) A lot is considered isolated if due to property size, minimum spacing standards cannot be achieved and where joint access that meets minimum spacing standards cannot be obtained or is undesirable in terms of conflicting land uses or traffic volumes. When joint access/shared parking to an approved full service curb cut becomes available that addresses these concerns, then the property owner shall close curb-cuts not conforming to the (185) feet minimum spacing.
- I. A lot may be permitted two (2) curb cuts when the curb cuts are spaced a minimum of one hundred and eighty-five (185) feet apart as measured from pavement edge to pavement edge, and when minimum spacing standards from adjacent access or public streets are met.
- J. A lot that contains a building with drive-thru service may have two (2), one (1)-way curb cuts depending on site layout, location of adjacent access, and whether adjacent access is available and may be shared. Subject to the approval of the Planning Commission.
- K. As new development or redevelopment occurs shared curb cuts with adjoining lots is encouraged, subject to the review of the Planning Commission.
- L. If needed for building use, a service alley or designated loading space shall be reserved at the rear of the building.
- M. Drive-thru pickup windows and coverings are prohibited on primary building frontages and shall be attached to the rear or side of the principal building.
- N. Corner lots are permitted (2) curb-cuts, one on each frontage street, providing it meets the minimum spacing requirements.
- O. Drive thru services will be subject to conditional use application and approval by Planning Commission.

**Section 3930 Architectural Design Standards for Aesthetic Improvements of Existing Building (excluding residential)**

- A. General Guidelines:

These guidelines apply to all existing buildings undergoing façade renovations/improvements.

All buildings with a proposed addition greater than 49% of the existing building square footage are required to follow the Architectural Design Standards for New Construction.

1. Traditional architecture is preferred in the overlay district in order to create the appearance of a cohesive district. Radical design themes, elaborate structures or forms are discouraged due to their inability to blend in or complement the adjacent buildings.
2. Primary exterior entrance shall be located, wherever possible, within the primary building frontage. At a building corner where building frontages meet, one main entrance door may be located so as to meet the regulations for both building frontages. No exterior entrance is permitted from an exterior balcony. Secondary side loaded pedestrian entryways are permitted provided that the primary entrance is located within the primary building frontage facing the right of way.
3. The building walls shall incorporate architectural elements and materials consistent with the primary building frontage. A building frontage shall be articulated to avoid the appearance of a blank wall exceeding 20' in length, subject to approval of the Planning Commission.
4. Building colors shall consist primarily of natural material colors, such as buff, warm white, light gray, brick tones, etc. Bright (High Chroma) colors are acceptable for elements such as awnings, doors and building accents, but should not exceed 20% of the overall façade, including the roof.
5. Storefront windows shall be large enough to encourage visual connection between the outside and the inside. Upper story windows are generally smaller, and spaced at regular intervals in a traditional manner.
6. Improvements shall conform to the following requirements:
  - a) Remove existing signage and replace with signage in compliance with the Overlay District Standards.
  - b) Add or replace awnings on primary façade as recommended in the Architectural Design Standards for new construction.
  - c) Revise existing parapet detail to conceal flat roofs and rooftop equipment from public view. The average height of such parapets shall not exceed 15% of the height of the supporting wall. Such parapets shall feature three dimensional cornice treatments of not less than twelve inches in height, and shall incorporate no less than three reliefs. Parapets shall be provided on all sides of the building in order to avoid the appearance of false facades from the back or sides of the primary building.
  - d) Screen all mechanical equipment (both ground mounted and roof mounted), and dumpsters per the Architectural Design Standards for New Construction.

#### 6.1 Encouraged improvements (but not required)

- e) Update primary facade storefront glass system to comply with the Architectural Design Standards for New Construction. Where possible, glass openings should be 50% to 75% of the total wall area. (subject to the approval of Planning Commission)

- f) Update, where possible, all secondary building facades to match renovations/improvements made to the primary building façade (frontage).
- g) Add or revise sloped roofs per the Architectural Design Standards for New Construction.

### **Section 3935 Architectural Design Standards for New Construction (Excluding Residential)**

#### **A. General Guidelines:**

1. Traditional architecture is preferred in the overlay district in order to create the appearance of a cohesive district. Radical design themes, elaborate structures or forms are discouraged due to their inability to blend in or complement the adjacent buildings.
2. Primary exterior entrance shall be located within the primary building frontage. At a building corner where building frontages meet, one main entrance door may be located so as to meet the requirement for both building frontages. No exterior entrance is permitted from an exterior balcony.
3. A building frontage shall incorporate architectural elements and materials consistent with the primary building frontage. A building frontage shall be architecturally articulated every 20 feet to avoid the appearance of a blank wall. Articulation includes but not limited to: pilasters, windows, material change, etc. Subject to approval of the Planning Commission.
4. Building colors shall consist primarily of natural material colors, such as buff, warm white, light gray, brick tones, etc. Bright (High Chroma) colors are acceptable subject to approval of the Planning Commission for elements such as awnings, doors and building accents, but should not exceed 20% of the overall façade, including the roof.
5. Storefront windows shall be large enough to encourage visual connection between the outside and the inside. Upper story windows are generally smaller, and spaced at regular intervals in a traditional manner.
6. Proposed Institutional building architectural design shall be approved by Planning Commission in accordance to these guidelines. Planning Commission has the flexibility to modify the architectural requirements of this Overlay.

#### **B. Building Facades (All building frontages facing public right of way)**

1. Materials: Materials should be traditional, such as brick, stone, simulated stone, wood or composite wood, stucco, or architectural precast concrete. EFIS shall be permitted as an accent material and not as a primary façade material. EFIS shall be limited to 30% of the entire building façades (front, sides and rear) excluding windows.

**a) *40% of the building façade (excluding windows) shall be brick, stone, or simulated stone.***

2. Building Elements and Accent Materials: cornices, accents, or canvas awnings, overhangs, recesses/projections, peaked roof forms, arches, architectural details such as tile work and moldings, integral planters or wing walls, etc., shall be incorporated into the theme of the facade.
3. Configuration: Building facades shall be articulated through the use of fenestration (windows), structural expression (piers/columns), and similar details. Building façade (fronting a public right of way) glass openings shall be a minimum of 50% and a maximum of 75% of the wall area for the first floor. Building façade openings above the first floor shall be at least 25% and a maximum of 60% of the wall area. Non-frontage (accept rear) building walls shall be limited to a minimum of 15% glass openings and a maximum of 60%. Rear building walls and building walls not visible from public streets shall not exceed 30% glass openings. Building wall architectural detailing and articulation shall apply to rear and side walls per overlay code requirements.
4. All buildings with flat or barreled roofs frontages shall have a parapet up to a minimum of 15' above the adjacent ground plane. It is encouraged to provide an appropriate cornice detail to finish the parapet. Frontages may have a sloped roof.

#### C. Building Glass

1. All glass on the first floor shall be clear glass, permitting a view into the building's interior to a minimum depth of 4'. Reflective glass is not permitted. Tinted glass shall be permitted for Office uses only.
2. Storefront windows may use non-visual glass (i.e. frosted) up to 30" above the sidewalk or above 10' above the sidewalk provided it is in addition to the minimum of 50% clear glass.
3. Upper story windows should be of a traditional proportion with a maximum width equal to ½ of the window height.

#### D. Building Roofs

1. Sloped roofs and roof facades shall be traditional materials, natural or simulated, such as slate, wood shakes, dimensional shingles, metal standing seam or copper.
2. Roofs shall be a minimum 6/12 pitch and a maximum of 12/12 pitch with the eave line at a minimum of 12' above the sidewalk or adjacent ground. Total roof height shall be limited to 1½ times the height of the facade below. Eaves shall extend a minimum of 8" and a maximum of 3' beyond all building facade walls.

#### E. Awnings

1. Use of canvas awnings above storefront windows shall be incorporated in order to provide a pedestrian-friendly scale and a unified district appeal. Awnings shall be incorporated on all windows facing the public right of way.
2. All primary exterior entrances shall have an awning or architectural treatment directly over the door(s) to aid in identifying the entrance.

3. Awnings shall be made of canvas or similar waterproof material. Use of aluminum, fiberglass, plastic or similar materials is not permitted, except as structural components. Permanent steel canopies with standing seam roofs are acceptable, provided they are consistent with the overall theme of the façade.
4. Awnings shall be attached to the building wall, rather than only supported by poles or columns.
5. Awnings are not permitted to be backlit.

F. Mechanical Equipment

1. All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties, by using walls, fences, roof elements, penthouse-type screening devices or landscaping.
2. There shall be no exterior fire escapes.
3. All roof-mounted mechanical equipment shall be screened from public view. The roof screen shall be similar in material and color to the sloped roof or building wall. The roof screen shall be equal to or greater in height than the mechanical equipment.

G. Fences and Screens

1. Dumpsters and all ground-mounted mechanical equipment shall be located in an inconspicuous location at the side or rear of the building and screened from public view to the height of (1) foot above the dumpster/equipment. Screening material shall be consistent with the materials used on the building.
2. Fences, with or without masonry piers, shall be decorative and constructed of ornamental metal tubes, or solid metal bars. Fences may not exceed a height of 4 feet. Chain-link fences are not permitted.
3. Masonry or stone walls may be used for screening, sitting wall, or used as independent architectural elements. Walls may not exceed a height of 4 feet, unless used as a screening element for security, dumpsters or mechanical equipment.
4. Security fencing of up to 6' tall shall be permitted at the rear 1/3 of the property only. The fencing material shall be constructed of wood, metal tubes, masonry or solid metal bars. Chain-link, barbed wire, razor wire or any other 'high security' fencing is not permitted.

H. Side and Rear Building Walls

1. Wherever a side or rear façade is visible from a public street, or if parking is located at the side or rear of a building, the façade shall be designed to create a pleasing appearance, compatible with the primary facades and in accordance with the following design criteria:
  - a. Materials and architectural features used on the primary façade shall be incorporated on the side and rear façade for architectural consistency, subject to the approval of the Planning Commission.

- b. A building facade shall be architecturally articulated every 20 feet to avoid the appearance of a blank wall. Articulation includes but not limited to: pilasters, windows, material change, etc. Subject to approval of the Planning Commission.
- c. The sides of buildings shall continue the use and architectural articulation of the front façade for a minimum distance of 1/3 the length of the side elevation. This requirement is to avoid ‘one sided architecture’.

## I. Utilities

- 1. All utilities servicing any buildings within the overlay shall be run underground to reduce visual clutter within the corridor.

## Section 3940 Residential Architectural Standards

A. Residential Uses C-1, C-2 and C-3 shall be permitted in the Eastgate Overlay District. (Excluding single family)

### 1. Building Walls

- a. Brick shall be earth-tone colors in standards sizes.
- b. Stone shall be natural or simulated material with a smooth finish.
- c. Siding shall be wood, simulated wood, or vinyl (minimum thickness .046")
- d. Stucco and EIFS shall be permitted as an accent material only.
- e. Siding shall be traditional profiles such as 4"-8" horizontal beveled or shake. Siding surfaces may not be more than 75% of any wall surface.
- f. Stucco and EFIS shall be detailed to look like traditional wall cornices, soffits window trim, etc.
- g. Brick shall be laid in traditional masonry pattern.
- h. 40% of the building façade materials shall of masonry construction, ie. Brick, stone, etc.

### 2. Building Elements

- a. Awnings, canopies, etc. shall consist of fabric coverings. Metal or plastic are not an acceptable covering.
- b. Columns, cornices, and similar elements shall be natural or simulated natural materials such as wood, steel or stone.

### 3. Roofs

- a. Dimensional shingles shall be required (30 year)
- b. Sloped roofs are required on all buildings 3 stories (thirty feet) or lower in height.
- c. Minimum slope is 5/12
- d. Maximum slope is 12/12
- e. Maximum roof height shall not exceed 1.5 times the height of the building façade.
- f. No rooftop mechanical equipment or window/wall mounted air conditioning units shall be visible from the street level.
- g. Use of eaves, rakes, cornice lines, and frieze boards are encouraged.

h. Roof vents shall be located to the rear and be painted to match roof shingles.

#### 4. Windows and Doors

- a. Windows and door frames shall have the appearance of a traditional wood frame when practical.
- b. Glass shall be clear or tinted, reflective glass shall not be permitted. Frosted glass shall be permitted in appropriate applications
- c. The appearance of divided-light windows is strongly encouraged.
- d. Frames and trims shall be light neutral colors, such as warm white or cream.

#### 5. Building Lighting

- a. Fixtures with exposed bulbs shall not be permitted.
- b. Exterior light fixtures shall have an appropriate scale and appearance when visible from the public right of way.

### **Section 3945 Parking and Circulation**

- A. No new parking lot shall be created nor any existing parking lot expanded in front of a building unless the Planning Commission determines that parking in front of the building would be acceptable for either of the following reasons:
  - 1. Front yard parking is required to maintain the continuity of building setbacks in the block while making efficient use of the site, or
  - 2. Front yard parking is required for the purposes of traffic safety and to minimize driveway curb cuts where the new parking lot is proposed to connect with one or more parking lots on adjoining parcels.

Unless the Planning Commission determines that parking in front is permissible, new or expanded parking lots on the interior of the premises shall be located to the rear or side of the buildings, accessed by means of common driveways, preferably from side streets or lanes. Parking lots shall be small in scale where possible, and connected with parking lots on adjacent properties. Cross-access easements for adjacent lots with connected parking lots shall be required. Common, shared parking facilities are encouraged. Required parking may be accommodated offsite in common, shared parking facilities.

- 3. In order to maximize the amount of land area left for landscaping and open space, paving shall be confined to the minimum area necessary to comply with the parking requirements.
- 4. The parking lot layout shall take into consideration pedestrian circulation. Pedestrian crosswalks shall be provided, where necessary and appropriate, shall be distinguished by textured paving and shall be integrated into the pedestrian network system. Pavement textures shall be required on pedestrian access ways, and are strongly encouraged elsewhere in the parking lot, as surfacing materials, or when used as accents.
- 5. Surface parking lots shall be screened from the street as detailed herein.

6. Parking, access and vehicular circulation standards are as follows:

- a. The required number of off-street parking spaces may be reduced by up to 50% by the Planning Commission. Factors to be considered include, but are not limited to: the availability of on-street, public, permit or shared parking; available transit service; pedestrian traffic and accessibility; elimination of arterial curb cuts; hours of operation, peak use comparisons, and existing/proposed land use. The required number of loading spaces may be eliminated at the discretion of the Planning Commission, with due consideration given to: frequency and time of deliveries; size and nature of vehicles accommodated by the loading spaces; the character of the neighborhood; and impact upon adjoining streets or alleys.

B. Parking Setbacks

1. Rear and side yard setbacks for all parking lots are ten (10) feet from face of curb to property line. This area is intended for landscape buffering (see landscape and screening section).
2. The setback for any vehicular circulation area, such as a drop-off drive, along a primary street shall be a minimum of fifteen (15) feet from the primary street curb line.
3. The setback for a parking lot along a primary street shall be a minimum of twenty-five (25) feet and a minimum of fifteen (15) feet along any other street curb line.
4. When there is an opportunity to provide 'shared parking' and both property owners agree to share parking, the parking setback at shared points will be zero (0) feet.

C. Driveway

1. Each driveway shall be located and designed in a manner that provides for the safety of motorists and pedestrians.
2. A driveway serving a parking lot shall be designed so that vehicles entering or leaving parking lot will be traveling in a forward motion.
3. A driveway serving a residential parking area containing one to eight parking spaces shall have a minimum width of twelve (12) feet.
4. All other driveways shall have a minimum width of twenty-two (22) feet.

D. Vision Clearance

Minimum acceptable vision clearance standards for motorist and pedestrian safety at vehicular access points along streets are hereby established by restricting the placement, opacity, height and configuration of any fence, wall, planting or other obstruction in a required yard. Any person establishing a parking space which uses a driveway leading to a public street shall maintain vision clearance at the intersection of such driveway and street right-of-way line.

1. Clear vision for driveways to parking lots. An owner shall maintain unobstructed vision clearance between the elevations of two and one-half (2-1/2) to six (6) feet above the driveway grade within "clear vision triangles"; 10'x 20', right-angle triangles formed by the intersection of a driveway pavement edge and street right-of-way line.
2. Clear vision for other driveways. An owner shall maintain vision clearance on each residential lot abutting a street and having access thereto or abutting such access. No portion of a fence or wall exceeding two and one-half (2-1/2) feet in height above the finished lot grade shall exceed twenty-five (25) percent opacity when located in a required yard having vehicular access to a street or abutting such access; and mature plantings with foliage between two and one-half (2-1/2) and six (6) feet above the finished lot grade shall extend no closer than twelve (12) feet to the street right-of-way line.

#### E. Parking space

A parking space shall be a rectangular area of not less than nine (9) feet by eighteen (18) feet, exclusive of any driveway or other circulation area; shall be accessible from a street, alley, or maneuvering area; and shall be designed for parking a motor vehicle.

#### F. Striping and Marking

Parking space striping is required and shall be maintained in good condition. Each parking space and aisle shall be clearly designated and marked to assure approved utilization of the space, direction of traffic flow and general safety. When a parking space is designated for handicapped or small car use, it shall be clearly marked. Markings shall be installed prior to occupancy of a building or property. Parking lot striping shall be white in color.

#### G. Surface

The surface of any parking or loading space, parking lot, aisle or driveway shall be designed to control storm water runoff and be improved with Portland cement, asphaltic concrete or hard surface other than gravel or loose fill. Drainage shall conform to the standards of the Engineering and Utilities Departments in conjunction with the Stormwater Management Board. This section is intended to apply to any parking, loading, or maneuvering area regardless of whether or not such area is required.

#### H. Dumpster area

A Dumpster, when provided, shall be in a designated area that does not interfere with any aisle, driveway, parking space, loading space or other circulation area.

The location of a Dumpster, if any, shall be shown on the site plan with proper loading and maneuvering space; and for the purpose of location, shall be treated as a structure. A Dumpster shall be screened from view as defined herein.

Such area shall not be located in any required yard or setback and shall be maintained according to the requirements of the board of health.

## I. Parking Garages

1. Garage door openings shall be no more than thirty feet (30') in width. Ventilation grills more than four (4) square feet in area shall not be visible from any public street.
2. Parking garages shall not exceed 50 feet in height.
3. Retail and office uses are encouraged at the street level of parking garages. All architectural design elements of the Overlay apply to the 1<sup>st</sup> floor of the parking garage if retail / office uses are included.
4. Garages shall have an architectural finish, finishes to include the use of brick, stone, and /or architectural precast. Additionally, the finish is recommended to be a minimum of 25% brick.
5. Architectural screening (metal, aluminum, trellis/mesh like structure, etc.) is recommended on all openings facing public right of ways.
6. Garage exterior walls shall be a minimum of 42" above each parking deck to screen views of parked cars.

## J. Drive Thru Facilities

1. Establishments serving and or selling food and or drinks -minimum number of waiting spaces: 10 waiting spaces
2. Facilities with serving or drive-thru windows such as banks, ATM's, ticket/toll booths, pharmacy/drug stores -minimum number of waiting spaces: 10 waiting spaces, but not less than 5 spaces per window/stall when there are 2 or more windows or stalls
3. (Planning Commission can reduce the number of required waiting spaces by up to 50% if it can be shown that the reduction provides no conflicts with public and vehicular safety.)
4. Waiting Space Dimensions: Each off street waiting/stacking space shall have an area not less than 144 sq. ft. (measuring 8 ft. by 18 ft.) exclusive of access drives and parking aisles.
5. A minimum of fifty percent (50%) of the required waiting spaces shall not interfere with other circulation and parking for principal use, although spaces should be designed to interfere or impede on-and off-site traffic movements as little as possible. Vehicles shall not be permitted to wait within or block any public right of way or pedestrian sidewalk for service at such drive in or drive thru facilities.

## Section 3950 Eastgate Overlay Parking Requirements

### A. Residential types:

1. Apartment hotel - One (1) per dwelling unit.
2. Dormitory, fraternity house having sleeping rooms or rooming house - One-half (1/2) per occupant.
3. Housing for elderly - Three-fourths (3/4) per dwelling unit.

4. Mobile home – Two (2) per dwelling unit.
5. Multi-family with three (3) or more dwelling units - Two (2) per dwelling unit.
  - a. For dwelling units containing less than 600 square feet in a project without any accessory building or use such as, but not limited to, a party house, tennis court, or swimming pool - One and one-half (1-1/2) per dwelling unit.
6. Single-family or two-family dwelling - Two (2) per dwelling unit.
7. Town house development - Two and one-half (1-1/2) per dwelling unit.

B. Commercial types:

1. Amusement arcade - One (1) for each fifty (50) square feet of gross floor area.
2. Auditorium, stadium, conference center, or large place of assembly - One (1) for each thirty (30) square feet of gross floor area of the auditorium or assembly space.
3. Automobile car wash, automatic - Two (2) per site in addition to required stacking spaces. A washing space is not a parking space.
4. Automobile car wash, self-service - No parking space is required; One (1) drying space plus two (2) stacking spaces are required per washing space. A washing space is not a parking space.
5. Automobile repair garage - Two (2) per service bay. A service bay is not a parking space.
6. Automobile sales/rental - One (1) for each five thousand (5,000) square feet of development lot area used for vehicle display and one (1) for each three hundred (300) square feet of gross floor area.
7. Automobile service station which sells gas and provides lubrication, oil changes and repairs - Two (2) per automobile service station. A pumping space is not a parking space.
8. Bowling alley - Four (4) per alley or lane.
9. Funeral parlor and mortuary - One (1) for each one hundred fifty (150) square feet of gross floor area.
10. General office - One (1) for each three hundred (300) square feet of gross floor area.
11. Hotel or motel - One (1.2) per guest room.
12. Medical or dental office - One (1) for each two hundred fifty (250) square feet of gross floor area.
13. Restaurant, tavern or dining room - One (1) for each seventy-five (75) square feet of gross floor area.
14. Retail store - One (1) for each two hundred fifty (200) square feet of sales floor area.
15. Skating rink or dance floor - One (1) for each one hundred (100) square feet of gross floor area.
16. Swimming pool, indoor or natatorium - One (1) for each one hundred (100) square feet of water surface area; plus one (1) for each thirty (30) square feet of gross floor area used for spectator seating purposes.
17. Swimming pool, outdoor - One (1) for each fifty (50) square feet of water surface area; plus one (1) for each thirty (30) square feet of gross floor area for spectator seating purposes.
18. Tennis or racquetball facility - Two (2) per court.
19. Any other type of business or commercial use in a commercial district or other permitted district - One (1) for each two hundred fifty (250) square feet of gross floor area.
20. Medical and Clinical Uses- One (1) per 150 sq. ft. of gross floor area.

C. Institutional types:

1. Any type of electrical substation, gas regulating station, telephone exchange or utility station - One (1) per employee on the largest shift for which the facility is designed, plus one (1) per motor vehicle used in the operation and based, for operational purposes, on the premises, but in no case shall less than one (1) parking space be required.
2. Child day care center, kindergarten or nursery school - Two (2) per classroom but in no case shall less than six (6) parking spaces be required.

3. Church or other place of religious assembly - One (1) for each thirty (30) square feet of gross floor area of the sanctuary, auditorium or main place of worship.
4. Elementary school - Two (2) per classroom and one (1) for each sixty (60) square feet of gross floor area in the auditorium or assembly hall.
5. High school, business, technical or trade school, college or university - Two (2) per classroom and one (1) for every ten (10) students for which the facility is designed; or one (1) for each sixty (60) square feet of gross floor area in the auditorium or assembly hall, whichever is greater.
6. Hospital - Two and one-half (2-1/2) per bed. A bassinet is not a bed.
7. Library, museum or art gallery - One (1) for each four hundred (400) square feet of gross floor area.
8. Medical or dental type office - One (1) for each two hundred fifty (250) square feet of gross floor area.
9. Sanitarium, nursing home, children's home or asylum - One (1) per two (2) beds.

D. Industrial types:

Warehousing - One (1) per motor vehicle used in the business and based, for operational purposes, upon the premises;

**Plus**

For the first twenty thousand (20,000) square feet of gross floor area, one (1) for each one thousand (1,000) square feet of gross floor area;

**Plus**

For any amount over twenty thousand (20,000) square feet of gross floor area but less than one hundred twenty thousand (120,000) square feet, one (1) per each additional five thousand (5,000) square feet of gross floor area;

**Plus**

For any amount over one hundred twenty thousand (120,000) square feet of gross floor area, one (1) for each additional ten thousand (10,000) square feet of gross floor area.

Manufacturing or other industrial use - One (1) per motor vehicle used in the business and based, for operational purposes, upon the premises;

**Plus**

For the first twenty thousand (20,000) square feet of gross floor area, one (1) for each seven hundred fifty (750) square feet of gross floor area;

**Plus**

For any amount over twenty thousand (20,000) square feet of gross floor area, but less than one hundred twenty thousand (120,000) square feet, one (1) for each additional one thousand five hundred (1,500) square feet of gross floor area;

**Plus**

For any amount over one hundred twenty thousand (120,000) square feet of gross floor area, one (1) for each additional three thousand (3,000) square feet of gross floor area.

## **Section 3955 Eastgate Storm Water Management**

A. Purpose:

The purpose of this section is to provide standards for the management of runoff from the redevelopment sites within the Eastgate Overlay District (District). The standards are supplemental to, and supplemented by, the City's existing drainage requirements, and do not stand alone. In the event of conflicting standards the City's Storm Water Engineer (Engineer) shall determine the standard to be met.

B. Exemptions:

Exemptions or waivers from this section and its standards rest fully with the City of Valparaiso and may be granted by the Engineer when, in his opinion, the section or the standards do not, or should not apply, or, are not warranted or practical and will not exacerbate downstream drainage conditions.

C. Administration:

The Engineer, his office or assigns, shall administer this section and have full rights of approval or denial of drainage plans for projects located within the District.

Appeals of decisions made by the Engineer under this section may be addressed to the City's Board of Public Works and Safety.

D. Management of Off-site Runoff:

Existing runoff from upstream tributary areas may be bypassed around the redevelopment site under the following conditions:

1. If the existing off-site runoff flows through the redevelopment site with no attenuation, it may be allowed to continue.
2. If the existing off-site runoff is attenuated in any manner on the redevelopment site, that attenuation shall continue on the redevelopment site to the same degree as existing.

E. Redevelopment Site Drainage Requirements:

1. Sites located north of Lincolnway and west of Roosevelt Road shall meet the requirements of the existing drainage standards and shall not be eligible to use the standards under this section.
2. Except as provided herein, sites shall detain the runoff from the redeveloped site. The storage volume shall be that required for the runoff from a storm with a 100-year recurrence interval less that volume discharged by the allowable discharge rate.
  - a. For calculating the allowable discharge rate a runoff coefficient value C of 0.57 shall be used with the Rational formula and a curve number CN of 78 when using TR 55.
  - b. For calculating the allowable discharge rate the time of concentration shall be determined using the existing site slopes, and as if the upstream half of the travel path were through a good condition grass surface with C = 20 or CN = 61, and the lower half of the travel path paved with C = 0.95 or CN = 98.
3. Detention storage may be provided, in whole or in part, by using conventional basins, surface parking lot depressions, underground vaults, pervious pavements or other approved means. Appropriate credits will be given for the use of "green roof technology" to detain runoff and/or reduce impervious area.
4. Sites less than 2 acres that are immediately adjacent to Knode Creek may discharge runoff directly to the Creek without detention except that for those sites, the requirements of item 6 below are required and are not discretionary. The discharge shall be accomplished in a manner that will not cause erosion.
5. Under no circumstances shall impervious area(s) greater than 5000 square feet drain directly to a City or State maintained right-of-way.
6. In addition to, or as a part of, the requirements above, developers are encouraged\* to incorporate water quality components in their storm water management system.

- a. For purposes of this District, runoff from roofs is considered “clean” and is not subject to water quality requirements.
- b. Runoff from parking lots and drives should be treated before discharged by using, as a minimum, catch basin/inlets with traps on the outlet pipes and sumps in the bottom, flat sloped vegetated swales, or other approved methods.
- c. Credit will be given towards both detention and water quality requirements when bio-retention systems are used on a site. Site developers are encouraged to incorporate bio-retention systems with the site landscaping.

\* Requirements are discretionary only until such time as water quality requirements are made a part of the City’s Standards.

## **Section 3960 Lighting**

A. Parking lot lighting shall be in accordance with the following standards:

1. Light fixtures shall not exceed twenty (20) feet above grade when located on a lot or premises of two (2) acres or less.
2. Light fixtures shall not exceed twenty-eight (28) feet above grade when located on a lot or premises of more than two (2) acres.
3. When located within twenty-five (25) feet of a residential district the height of a light fixture shall not exceed fourteen (14) feet above grade.
4. In parking lots, lights shall be placed in landscaped parking lot islands or on a solid base to protect both lights and vehicles from possible damage.
5. All on-site utilities, within a new development or a fifty (50) percent or greater expansion of a building’s gross floor area, shall be underground.
6. Gasoline service station canopy lighting shall be recessed within a canopy and use an opaque shield around the sides of a light.
7. The minimum (average) foot candle level shall be 1 foot candle. The average horizontal illumination level on the ground shall not exceed two (2) foot-candles. The light level along a property line adjacent to a residentially-zoned or used property shall not exceed an average intensity of one-half (1/2) foot-candle.
8. Exterior building illumination shall be from concealed sources. Strobe, colored or flashing lights are not permitted. Lighting fixtures shall not generate excessive light levels, cause glare, or direct light beyond the façade onto neighboring property, streets, or the night sky. The maximum illumination of any vertical surface or angular roof surface shall not exceed four (4) foot-candles. Holiday light displays are not subject to the standards herein.

9. Security lighting shall be from full cut-off type fixtures, shielded and aimed so that illumination is directed to the designated areas with the lowest possible illumination level to effectively allow surveillance.

B Exterior lighting shall be designed, located, constructed, and maintained to minimize light trespass and spill over off the subject property. To achieve this objective, the following are mandatory site lighting requirements:

1. Area lighting fixtures shall direct light downwardly, i.e. shall be full cut-off type fixtures.
2. Exterior building light fixtures shall not generate excessive light levels, cause glare, or direct light beyond the façade onto neighboring property, streets, or the night sky.
3. Landscape up lighting and build up lighting are permitted provided they don't generate excessive light levels.
4. High Pressure Sodium fixtures shall not be permitted for parking lot lighting. Accent lighting on building facades is permitted.
5. All lighting fixtures shall be black in color in parking lots.

## Section 3965 Signage

### A. Prohibited Signs

The following signs or similar devices are prohibited: Off-premise signs, trailblazer signs, externally visible neon and neon look-alike signs, trailer signs, search lights, laser lights, pennants, streamers, spinners, bench signs, roof signs, billboards, flashing signs, projected images and animated signs, signs with moving or moveable parts, and any look-alike version of any of these prohibited sign types. Signs on vending machines, trash bins, or other devices serving any premises shall be screened from view of any public right-of-way and adjoining private property. Neon may be used for internal illumination if totally enclosed and not externally visible.

### B. Attached Signs.

1. *Wall or Projecting Identification Signs:* Each business on the premises shall be allowed one (1) attached identification sign, and one (1) blade sign, per street frontage, with a maximum of two (2) signs, subject to the following provisions:
  1. *Contents.* Identification by letter, numeral, symbol or design, its name and/or address and the nature of the use.
  2. *Sign Area.* The sign area shall be computed at one (1) square foot per lineal foot of building width or tenant space width (for multiple tenants) along the wall which faces the public right-of-way on which the business has its main address. The maximum area of a blade sign shall be sixteen (16) square feet. The maximum sign area shall be limited to aggregate seventy (70) square feet.
  3. *Exception.* When a main building is set back farther than 200 feet from the public right-of-way, an additional one-half (½) square foot will be permitted per foot of setback, beyond the first 200 feet.

4. However, the maximum permitted sign area shall not exceed two (2) square feet per lineal foot of the width of the building or tenant space.
5. Height. No sign shall be erected above the tallest wall of the subject building. Signs shall not be located or attached to roofs. All signs shall be located a minimum of 1 foot under the eaves of all buildings.
6. *Illumination.* Signs may be illuminated but shall not flash, blink, fluctuate, be animated or change physical position by movement or rotation.
7. *Canopy Signs.* Each business on the premises shall be allowed two (2) non-illuminated canopy signs with the area for each sign limited to three (3) square feet. No back-lighting of the canopies shall be permitted.

C. *Permitted Detached (free-standing) Identification Signs.* One (1) Ground mounted sign per property per frontage. Each ground mounted development sign shall be allowed one (1) double-faced detached identification sign per street frontage, with a maximum of two (2) signs when the fronting streets are nonintersecting. When on intersecting streets, the placement of the second sign shall be a minimum distance of 350 feet from the first sign, measured along the street edges, subject to the following provisions:

1. *Contents.* The contents are limited to identification by letters, numerals, or symbols referring to the name, address or nature of the business(es).
2. *Sign Face Area.* No detached sign shall have an area greater than one (1) square foot per lineal foot of building frontage, up to a maximum of twenty-four (24) square feet per sign face.
3. *Changeable Message Area.* A message area or menu board designed as an integral part of the sign may be utilized and shall be limited to 50% of the total permitted sign face area.
4. *Height.* The height of any detached sign shall be limited to a maximum of six (6) feet.
5. *Setback.* Any detached sign shall be set back a distance at least fifteen (15) feet from the back of curb. This setback is to be measured from the nearest portion of the sign.
6. *Landscaping.* Landscaping shall be provided around the base of any ground mounted sign to a minimum of 3 ft. beyond the foundation of the sign.
7. *Illumination.* Signs may be illuminated but shall not flash, blink, fluctuate, be animated or change physical position by movement or rotation. Exterior illuminated signs shall be lit from a concealed source.

D. *Window Display Signs.* Signs incorporated into the window display of a business are permitted, provided such window display signs are:

1. Limited to one sign per window, with the total area of each sign not exceeding 10% of the area of the window in which it is placed, or six square feet, whichever is less, and limited to an aggregate maximum of 24 square feet per business.
2. Place only in ground level windows.
3. Erected for no longer than 30 days each. All previously displayed window signage shall be removed and not reinstalled for 30 days.

4. The name of the company or business is limited to a maximum of 25% of the actual size of the window display sign.
5. All signage shall be professionally designed, printed and mounted installed by a contractor licensed to work in the City of Valparaiso.
6. Signage shall be limited to the advertisement and sales of merchandise or services directly associated with the business type.

E. *Movable Signage Boards.* Signs that are movable to display daily specials such as sandwich boards.

1. Limited to one sign board per tenant/business with the total area of the sign not exceeding seven (7) square feet per business.
2. All signage boards shall be professionally designed, printed and mounted on durable signage board.
3. Signage shall be limited to the advertisement and sales of merchandise or services directly associated with the business type.

### **Section 3970 Landscaping and Screening**

The intent of the requirements contained below is to provide adequate screening of parking lots, to create a defined “edge” along streets within the overlay boundaries, and to provide interior parking lot landscaping.

Tree plantings, landscaping, and screening are required along street frontages and in the interior of parking lots; the following standards are required:

A. Species shall be installed and maintained as follows:

1. Deciduous trees shall be a minimum of two and one-half (2.5) inches in caliper, as measured four (4) feet from top of soil level.
2. Ornamental trees shall be a minimum of two (1.5) inches in caliper, as measured four feet from top of soil level.
3. Tree canopies within walkways or sight lines shall be installed at a minimum of six (6) feet from the ground where adjacent to pedestrian walkways or parking facilities.
4. Hedges and shrubs may be deciduous or evergreen but shall be a minimum of twenty-four (24) inches in height and width with an expected height of thirty-six (36) inches within three (3) years when used as screening.
5. All plants and landscaped areas shall be maintained in a neat and healthy condition. All dead plant material shall be replaced shall be planted no later than the next planting season; and shall also meet the size requirements herein.

B. *(5) percent of all parking lot interiors shall be landscaped. Parking Interior is defined from the face of curb or perimeter of pavement inward.*

C. Landscaped islands shall be installed within the interior of a parking lot in accordance with the following standards:

1. One landscape island is required for every twenty (20) parking spaces. If a site, due to its size and configuration, cannot meet this standard, two (2) landscape peninsulas may be substituted for one (1) landscape island.
2. All landscaped islands shall have a minimum width of eight (8) feet.
3. Landscaped islands do not need to be uniformly spaced, but shall be contained within and dispersed throughout the interior of a parking lot. Landscaped islands that define a main entranceway and separate parking areas can count towards the required five (5) percent interior landscaping.
4. One tree shall be provided for each 10 parking spaces. Each island shall include (1) shade tree.

D. All off-street parking shall be screened by a minimum three (3)-foot / (4) foot maximum high continuous row of shrubs or masonry wall. Shrubs shall achieve an overall opacity of seventy-five (75) percent when in leaf within 3 years of being planted. Ornamental plantings, in addition to the above requirement, are encouraged but not required. Such row of shrubs cannot exceed two hundred (200) lineal feet without incorporating one or more of the following changes in treatment:

1. A different species of shrub. (artificial plant material shall not be permitted)
2. A masonry pier with a minimum height of forty-eight (48) inches.
3. Access drive, which is compliant with all standards herein.
4. A 4-foot high solid masonry or stone wall; or
5. A 4-foot high (black in color) decorative metal tube or solid metal bar fence located at the street right-of-way line (property line), with or without masonry pier supports.
6. Shade trees shall not be planted within 15 ft. of parking lot light fixtures.

For all parking areas facing a primary street shall consist of a minimum 3 foot wide landscape area, a metal (black in color) 4 feet tall picket fence and continuous shrub row consistent with the standards herein. The landscaped area shall be planted with evergreen shrubs and one deciduous shade tree per 30 feet of frontage.

F. An auto dealership\* is not required to plant trees, or otherwise screen view of areas used solely for new and used automobile display and inventory areas, but shall maintain perennial plantings or a minimum twenty-four (24) inch high continuous hedge or shrub on any perimeter, which faces or abuts a public street. Employee and customer parking shall be landscaped, planted and screened to the standards of the overlay district. Areas used for the storage of cars awaiting repair shall be screened to the standards of this section if they abut a public street. All display, inventory, parking, and storage areas shall be clearly delineated on a site plan. Building foundation plantings shall be incorporated along the portions of the building fronting public right of ways.

## ARTICLE XL

### MEDICAL, OFFICE & TECHNOLOGY DISTRICT

#### SECTION 4010 PURPOSE, AUTHORITY, AND APPLICATION

A. **Purpose.** The Medical, Office & Technology (MOT) District has the following purposes:

1. **General.** This district is a use-based district that is intended to permit the establishment of individual and mixed use developments for a medical center, hospital complex, office, and technology park that may be planned as an integrated campus, and to permit planned expansion of such campuses and parks.
2. **Character.** This district is intended to have a high-quality character, providing sufficiently landscaped green space or pervious area to present a quality appearance, buffer any residential neighbors, and to provide for a campus-wide on-site stormwater management and treatment system and walking opportunities for visitors and employees.
3. **Uses.** The primary uses of this district are intended to include hospitals, health care facilities, offices, or technology facilities or a mix of these which includes offices, laboratories, and other uses that support the primary uses, its patients, visitors, and workforce.
4. **Location and Scale.** This district shall be located with principal access to an arterial road and secondary access to either another arterial road or a collector road. There shall a minimum of two access points.
5. **Infrastructure.** Public water and sewer is required. Electric utilities, communication, and cable television, except transmission lines, shall be located underground.

B. **Authority.** This district is a district which has the development requirement of a development plan, pursuant to IC 36-7-4-1400, *et seq.* (1400 Series. Development Plans).

1. **Application.** The district shall not be applied to land that is less than 50 contiguous acres.
2. Rezoning ordinances that designate property as MOT shall become effective upon adoption of the map amendment designating the MOT by the City Council. If no concept plan is filed pursuant to Section 4030 within 18 months from the date the map amendment was adopted and subsequently approved thereafter, then the map amendment shall terminate and the zoning designation of the land shall revert to its previous designation unless the City Council grants an extension.

## **SECTION 4020 PERMITTED USES**

In the Medical, Office & Technology District, no land or building shall be erected or used except for one or more of the uses specified in this Section.

- A. Hospitals, subacute hospitals, and nursing homes
- B. Outpatient diagnostic and treatment centers, day surgery centers, rehabilitation clinics, and urgent and emergency care facilities.
- C. Professional offices intended primarily for health care related professions or activities or hospital support services, and offices for non-profit organizations.
- D. Diagnostic or medical laboratories.
- E. Retail and wholesale sales, distribution, storage, repair, and service of durable medical equipment; and storage of medical, dental and surgical supplies.
- F. Helipads, heliports, and helistops.
- G. Medical research and medical educational facilities and activities.
- H. Psychiatric and mental health centers.
- I. Educational facilities for the training of interns, nurses, and allied health care personnel.
- J. Specialized congregate housing meeting the healthcare needs for those of all ages.
- K. Child care centers and pre-schools.
- L. Family day care, group foster care, adult foster care, and adult day care facilities.
- M. Conference facilities.
- N. Ambulance service and maintenance facilities.
- O. Residential dwelling units for those employed within facilities located in the MOT District or associated with businesses or programs operated within the MOT District so long as such dwelling units are located above the first floor of a building occupied by one or more other permitted uses in the district, and with a minimum of 950 square feet per unit.
- P. Parking decks and garages.
- Q. Hotels and specialized lodging facilities, including those with accessory conference centers and restaurants related to one or more hospitals operating in the district.
- R. Private recreational facilities (indoor and outdoor) to be used by employees and patients of hospitals.
- S. Office Park uses as provided in Article XXXII, Section 3220.
- T. Banks, credit unions, savings and loans and similar financial institutions with drive-through teller windows and automatic teller windows and stand alone automatic bank teller machines and retail and restaurant facilities if the foregoing are contained in multi-user buildings having a gross floor area for each building of no more than 15,000 square feet.

- U. Health clubs and fitness centers.
- V. Chapels, churches, places of worship and related facilities , contained within a building with primary purpose of housing one or more permitted uses listed herein.
- W. Essential services and buildings without outdoor storage and governmental buildings such as township/state/county offices, police/fire stations, libraries, and community centers;
- X. Public or private parks and open space.
- Y. Accessory retail and personal service establishments related to hospitals and other Permitted Uses primarily intended to serve employees, residents, and visitors to the Medical, Office & Technology District including pharmacies, greeting cards, florist, optical sales, financial institutions, cafeterias and restaurants with primary access within the hospital and attached buildings.
- Z. Accessory transit facilities such as bus stops, taxi stands, transit collection points, and shelters.
- AA. Accessory mobile medical technology unit.
- BB. Accessory uses, buildings, and structures customarily incidental to any of the above uses shall be permitted, including on-site utility substations such as heating and cooling plants, bottle gas and storage, laundry, service buildings, materials for maintenance, incinerators (only for waste generated on site), emergency generators, and related electro-mechanical systems.
- CC. Assisted Living Facilities and Centers
- DD. Age-targeted or age-restricted housing facilities and developments
- EE. Health-related museums
- FF. Pharmacies, contained within a building with primary purpose of housing one or more permitted uses listed above.
- GG. The following uses are permitted subject to the conditions and requirements of Section 4040(E)(5):
  1. Power plant
  2. Utility substations
  3. Substance abuse treatment centers
  4. Incinerator
  5. Maintenance heliport
  6. Helipad
  7. Wastewater treatment facility

## SECTION 4030 CONCEPT PLAN APPROVAL

- A. **General.** Development within an MOT district shall be pursuant to a concept site plan approved by the Planning Director after consultation with the petitioner. The concept plan shall be construed to be a “development plan” within the meaning of Ind. Code 36-7-4-1400 *et. seq.*
- B. **Content of Concept Plan.** The concept plan shall indicate:
1. The layout of the site and general configuration and height and floor area of all buildings.
  2. The location of parking areas and open space.
  3. The proposed uses of buildings and land areas.
  4. The location of areas for storm water management.
  5. The location and dimensions of landscape buffers.
  6. Vehicular and pedestrian circulations systems within the site and connections to off-site systems.
  7. Project phasing.
  8. A palette of signage with a unified design theme to be used within the district for wayfinding, building identification, and public safety shall be required for the final concept plan.
  9. A set of architectural guidelines or pattern book shall be submitted for approval with the final concept plan. This document shall control the general materials, massing, and style of buildings, and shall provide the basis for subsequent approvals of individual buildings by City Staff.
- C. **Approval Process.**
1. Application for concept plan approval shall be submitted on a form approved by the Planning Director, together with the required materials, including the proposed concept plan map in accordance with Section 4030(B), and the prescribed fee approved by the Common Council. The Planning Director shall review the application for completeness and notify the petitioner in writing of any deficiencies. The Planning Director shall consult other department heads and staff as necessary in order to make this determination.
  2. If the application is complete, the Planning Director shall review the concept plan for compliance with the Zoning Ordinance, including this Article, and issue a written determination to the applicant within 10 calendar days, which determination shall approve the concept plan, deny the concept plan, or approve the concept plan certain to revisions necessary to bring the concept plan into compliance with the Zoning Ordinance..
  3. Decisions of the Planning Director may be appealed to the Plan Commission pursuant to Ind. Code 36-7-4-1404.
  4. Amendments and modifications to the concept plan may be submitted for approval and reviewed in the same manner as for the original concept plan.
- D. The City Site Review Process as outlined in Article XXXV of the Zoning Ordinance shall succeed the approval process outlined in item C above.

## SECTION 4040 SITE DESIGN AND ARCHITECTURAL STANDARDS

All uses and development in the Medical, Office & Technology District shall be in accordance with the following:

### A. Access and vehicular circulation.

1. Principal access points to the district from public streets shall be from streets that are classified arterial according to the City Thoroughfare Plan.
2. Individual uses shall take access via an internal street system, which shall be designed to keep trips from one use to another within the district off of adjacent streets.
3. Notwithstanding subsection A.3., emergency room access may be taken from a collector street to facilitate improved response times.
4. If the thoroughfare plan indicates that an adjacent street is a “future” arterial or collector, then the street shall be improved along the boundary of the property to City specification for the anticipated type of street. The timing of the improvement shall correspond to the approval of that part of the development in which the peak hour use of the street serving as the principal access will be projected to exceed its design capacity at the access point (improvement of the street shall be a condition of such development).
5. Connections shall be provided between phases within the district and between the district and adjacent property that facilitate movement between related and supporting uses without forcing use of arterials and collectors.

### B. **Parking.** Parking shall be provided as set out in Article VII of the Zoning Code.

### C. **Pedestrian Circulation.**

1. A pedestrian system shall be developed that provides for connections between buildings and between parking areas and buildings.

### D. The provision of a recreational trail and exercise trail shall be considered desirable

### E. **Setbacks, Landscape Buffers, and Site Landscaping.** Setbacks, landscape buffers, and site landscaping shall be provided as follows:

1. Arterial and collector streets:
  - a. Minimum width of buffer: 20 feet
  - b. Minimum buffer landscaping per 100 linear feet:
    - i. 1.6 canopy trees
    - ii. 1.6 understory trees
    - iii. 1.6 conifers
    - iv. 18 shrubs
2. Perimeter streets which encircle the entire district:
  - a. Minimum width of buffer: 15 feet
  - b. Minimum buffer landscaping per 100 linear feet:
    - i. 1 canopy tree
    - ii. 1 understory tree
    - iii. 1 conifer

- iv. 15 shrubs
- 3. Abutting nonresidential zoning district:
  - a. Minimum width of buffer: 5 feet
  - b. Minimum buffer landscaping per 100 linear feet:
    - i. 1 canopy tree
    - ii. 1 understory tree
    - iii. 1 conifer
    - iv. 11 shrubs
- 4. Abutting residential zoning district, generally:
  - a. Minimum width of buffer: 25 feet
  - b. Minimum buffer landscaping per 100 linear feet:
    - i. 2.25 canopy trees
    - ii. 2.25 understory trees
    - iii. 2.25 conifers
    - iv. 25 shrubs
- 5. Buffer between any power plant, incinerator, maintenance heliport, helipad, substance abuse centers, wastewater treatment plants, and residential zoning districts or
  - a. Minimum setback: 200 feet. If feasible, one or more nonresidential buildings shall be located between residential uses or residentially zoned property and the power plant, incinerator, maintenance heliport, or helipad.
  - b. Minimum width of buffer (to be located within setback area, closest to the district boundary line): 25 feet
  - c. Minimum buffer landscaping per 100 linear feet:
    - i. 3 canopy trees
    - ii. 3 understory trees
    - iii. 3 conifers
    - iv. 33 shrubs
- 6. Site Landscaping of yards or green spaces as required by Section 4050 (E)(3) shall be provided as follows:
  - a. Canopy trees or conifers: 10 per acre of required landscaped area
  - b. Understory or ornamental trees: 15 per acre of required landscaped area
  - c. Shrubs: 100 per acre of required landscape area
- F. **Minimum Standards for Landscape Material.** Landscaping shall meet the following minimum standards at the time of installation.
  - 1. Canopy trees: 3 inch caliper
  - 2. Understory trees: 1-1/2 inch caliper or six feet high
  - 3. Conifers: 8 feet high

4. Shrubs: 3 feet high

**G. Emergency Room Entrances.**

1. Emergency room entrances must face away from any residentially zoned or used property within 1,000 feet.
2. If such orientation is not feasible, then the following buffer between the entrance and abutting street shall be required:
  - a. Minimum width: 20 feet.
  - b. Landscaping: 8-foot high wall, architecturally compatible with the primary structure and planted with conifers on both sides, staggered and spaced 20 feet on center.

**H. Street Trees.** All streets (public or private) shall be landscaped with canopy trees at 2 per 100 linear feet. This may be averaged to avoid problems with curb cuts.

**I. Parking Lot Landscaping.**

1. There shall be one canopy tree planted for every 12 spaces in the parking lot. The developer is encouraged to integrate parking lot landscaping into the storm water system to assist in cleaning the run-off. Species that are water tolerant must be selected for this purpose.
2. Where parking is visible from roads or residential areas, a berm, hedge, or wall 4.5 feet in height shall be used to screen the parking from view. A berm with plantings that complete the screening may meet the height in combination with a wall.
3. No parking shall be permitted in required bufferyards.

**J. Signs**

1. **Site Signage.** Only the following signage is permitted within areas that are visible from public streets up to a distance of 50 feet from the district boundary:
  - a. One monument type ground sign at the principal entrance to the district, located to facilitate wayfinding. The sign shall meet the following standards:
    - i. Maximum width: 12 feet
    - ii. Maximum height: 10 feet
  - b. One monument type ground sign per frontage (not including the sign permitted at the principal entrance by J.1.a., above), located at an entry to the district. The sign shall meet the following standards:
    - i. Maximum width: 10 feet
    - ii. Maximum height: 15 feet
    - iii. Each site is permitted (a) a monument type, ground sign no more than 10 feet in width and 15 feet in height and (b) one additional monument type, ground sign of the same or smaller size for every 1,000 feet of Front Yard frontage in excess of 1,000 feet on the Signature Street or adjacent street of collector classification or greater. Each site is also permitted a monument, style ground sign that identifies the project and one occupying entity within the project. Mounding and other innovative sign treatments are especially encouraged in this area. Pole-mounted signs are

not permitted. All other signs permitted in the C-3 District are permitted in the Medical, Office & Technology District.

iv.

2. **Internal Signage.** Internal signage shall be consistent with the palette of signage approved with the concept plan. Except as otherwise specified below, signage internal to the district shall comply with the following standards:
  - a. Maximum sign area: 36 square feet per frontage
  - b. Maximum sign height: 8 feet
  - c. Permitted sign types:
    - i. Monument signs
    - ii. Wall signs, which may be as large as 0.4 square feet per lineal foot of building frontage, notwithstanding the maximum sign area described above. On buildings exceeding two stories in height or exceeding 50,000 square feet, one additional wall sign not to exceed 2 square feet is permitted per lineal foot of building frontage per building frontage.
    - iii. Directory signs
    - iv. Only traffic signs (e.g., street names, stop signs, yield signs, and the like) are permitted to be mounted on poles.
  - d. Where not in conflict with this ordinance, the City of Valparaiso Sign Standards as detailed in Article IX shall apply.

## **SECTION 4050 DEVELOPMENT STANDARDS**

The following development standards shall apply in the MOT District:

- A. **Minimum lot area.** No requirements
- B. **Minimum lot width.** If the district is subdivided into individual buildings lots, each lot must be sufficient for the proposed building to be located on it.
- C. **Setback from inside edge of sidewalk (or front yard, if district is subdivided).**
  1. No front yard is required where the building faces on a sidewalk with street trees.
  2. Where there is to be a setback, the setback shall be a landscaped area of:
    - a. 5 feet if the entire landscaped area is in trees and shrubs, or decorative grasses; and
    - b. 12 feet where grass that requires mowing is planted.
- D. **Building spacing (or side yard, if district is subdivided).**
  1. A side setback, if provided, shall be at least 6 feet. Buildings that are not designed as a connected block must be separated by at least 12 feet on the sides. Buildings that are designed as a connected block do not require side setbacks.
  2. All buildings shall have at least 15 feet of rear setback to service streets or other building rear setback lines, whichever is closer to the building.
- E. **Intensity.** The overall intensity within the district shall not exceed the following standards:
  1. Maximum floor area ratio: 0.60

2. Minimum landscaped surface ratio for entire campus: 0.30
3. Minimum landscaped surface ratio for an individual lot within the campus, if the campus is subdivided: 0.10
4. Maximum height of buildings: 8 stories or 110 feet, whichever is lower. However, no building shall be set back from the perimeter of the district less than 1.25 feet for every foot of building height. A building with staggered height shall meet the setback at each height level.

## **SECTION 4060            OVERLAY ZONES**

Medical, Office & Technology Districts are well suited for location along Signature Corridors, which are regulated by the overlay ordinance set out in Article XXIX. Some provisions of the overlay ordinance, however, are not consistent with creating the types of environments envisioned by this Article. Therefore, the terms of this Article shall control and apply where a conflict between this Article and Article XXIX occurs; however, Sections 2935(1), 2935(2), 2935(3), and 2940 shall specifically apply to developments in an MOT district. Unless defined otherwise in this Article, defined terms in this Article will have the definitions as defined in Article XXIX, and if not in Article XXIX, in the zoning ordinance.

## **PROJECT COMPLIANCE**

For purposes of any Campus that is developed as a unified Campus, the Architectural and Site Design Standards in Section 4040 and the Development Standards in Section 4050 shall apply to the Campus as a whole, regardless of the number or location of individual lots within the Campus. The standards may be varied throughout the Campus so long as the standards for the Campus as a whole comply with this Article.