

Article 01

Ordinance Foundation

City of Butler Zoning Ordinance

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Basic Provisions

1.1 Title

This Ordinance shall be formally known as the "City of Butler Zoning Code," and it may be cited and referred as the "Zoning Ordinance," the "Zoning Code," or "the Code."

1.2 Defined Words

Words used in a special sense in this Zoning Ordinance are defined in Article Ten.

1.3 Authority

This Zoning Ordinance is adopted by the City of Butler pursuant to its authority under the laws of the State of Indiana and all other applicable authorities and provisions of Indiana statutory and common law.

1.4 Purpose

This Zoning Ordinance is intended to guide the growth and development of the City and manage change within the City in accordance with the goals and objectives in the City of Butler Comprehensive Plan by:

- A. Securing adequate light, air, convenience of access, and safety from fire, flood and other danger, which may include providing adequate open spaces for light, air and outdoor uses.
- B. Providing for the safe and efficient movement of vehicles and pedestrians along public ways.
- C. Promoting the public health, safety, comfort, morals, convenience and general welfare.
- D. Planning for and promoting orderly and beneficial development of the City by regulating the density and distribution of population; by regulating the use and intensity of use of land for residential, commercial, industrial, public, and other activities; and by regulating the location, height, bulk, area and use of buildings, structures and land.
- E. Assuring the community grows only with adequate public ways, utility, health, educational and recreational facilities.
- F. Balancing and recognizing the needs of residential, industry and business in future growth.
- G. Providing healthful surroundings for families in residential areas.
- H. Promoting the efficient and economical use of public funds by proactive planning.
- I. Providing for the gradual elimination of non-conforming uses.
- J. Establishing procedures for the implementation and enforcement of this zoning ordinance.
- K. Establishing punitive recourse for violations or noncompliance regarding these provisions.

1.5 Compliance

After the effective date of this Zoning Ordinance, no buildings, structures, or uses of land or structures existing or hereafter established, shall be altered, erected, constructed, moved, divided or maintained except in accordance with the provisions of this Zoning Ordinance except as otherwise hereinafter provided.

The Zoning Ordinance shall be read in terms of and shall be interpreted to include as an integral part thereof any and all other provisions of the Butler Municipal Code which are necessary for an understanding of this title and the attainment of its purpose. As a matter of interpretation, acts not specifically permitted in an area, shall be deemed prohibited. See Section 1.18.

1.6 Severability

If any provision or the application of any provision of this Zoning Ordinance is held unconstitutional or invalid by the courts, the remainder of the Zoning Ordinance or the application of such provision to other circumstances shall not be affected.

1.7 Interpretation

- A. **Minimum Requirements:** The provisions of this Zoning Ordinance are the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience and general welfare of the people at large.
- B. **Conflicts or Inconsistency:** If two or more provisions within this Zoning Ordinance are in conflict or are inconsistent with one another, then the provision which is most restrictive shall apply.

Basic Provisions

- C. Text: If there are found to be differences between the meaning or implication of any drawing, table, figure, title or section heading, the text of this Zoning Ordinance shall apply.
- D. Time Frames: Any time frames stated within this Ordinance shall be calculated to include weekdays, weekends, and holidays. If a time frame ends on a Saturday, Sunday or holiday that the City offices are closed, the time frame will be extended to the end of the next business day.
- E. Delegation of Authority: If a provision in this Ordinance requires the department head, other City officer or office to perform an act or duty, that provision shall also include designated subordinates unless specified otherwise.
- F. Mandatory and Permissive Terms: The words "shall" or "must" are always mandatory and "may" or "should" are always permissive.
- G. Words Used: If words used in this Zoning Ordinance are not defined in Article Ten they shall be construed to be the common usage of the language. Any legal or technical words not defined in this Zoning Ordinance shall be construed to be as defined by a current and common dictionary.
- H. Tense: If words are used in a specific tense (past, future, or present) it shall be construed to include all tenses, unless in context, it clearly indicates a single tense.
- I. Singular/Plural Form: If words are used in singular form the plural form shall apply and vice versa, unless in context it clearly indicates the contrary.
- J. Gender: If a feminine term is used, the masculine shall also apply and vice versa.
- K. Conjunctions: "And" shall be construed to include all connected items in a series, conditions, and provisions. "Or" shall be construed to include one or more of stated alternatives, unless in context it clearly suggests the contrary.
- L. Formulas: If a formula within this Zoning Ordinance results in a decimal or fraction, the number shall be rounded up to the nearest whole number. For example, if one shrub is required per 50 feet of parking lot perimeter and the parking lot has 120 feet of perimeter, the formula would require 2.4 shrubs ($120 \text{ feet} / 50 = 2.4$). The 2.4 shrubs would be rounded up to three shrubs.

1.8 Applicability

- A. This Ordinance applies to all land and land development within the corporate limits of the City of Butler, Indiana. This Ordinance applies to the fringe area within Butler's extraterritorial jurisdiction illustrated on the Zoning Map.
- B. When a structure or parcel of land is governed by this Zoning Ordinance, private covenants, agreements, and other laws, the laws of the greatest restriction shall control. The City is not responsible for enforcing private covenants.

1.9 Annexation and Vacation

- A. Territory that is annexed into the City shall be assigned a City Zoning classification as part of the annexation procedure and ordinance.
- B. Whenever any street, alley, public way, railroad right-of-way or other similar area is vacated, the zoning classification of the adjacent property shall be extended to the center of the vacated right-of-way.

1.10 Repealer

The following City ordinances are hereby repealed and are replaced by this Zoning Ordinance and Official Zoning Map:

- A. Chapter 150: Zoning Code of Title 15: Land Useage of the Butler City Code and its associated Zoning Map.
- B. Cahpter 153: Mobile Home Parks; Manufactured Housing of Title 15: Land Useage of the Butler City Code.

Basic Provisions

1.11 Transition Rules

- A. Any application for an Improvement Location Permit that has been filed with the Plan Commission or Community Development Office, and is full and complete, prior to the effective date of this Zoning Ordinance, shall be regulated by the terms and conditions of the Zoning Ordinance that was in place at the time of filing. However, all administrative procedures shall follow those terms and conditions set forth by this Zoning Ordinance.
- B. Any application for a Zone Map Amendment (rezoning) that was filed with the Plan Commission or its designees, and is full and complete prior to the effective date of this Zoning Ordinance, shall:
 1. Meet with the Community Development Office to determine if the proposed use, necessitating the rezoning is still permitted in the desired zoning district. Also, the Community Development Office will determine if the zoning district desired by the petitioner will still exist in the new zoning ordinance.
 2. If the land use is no longer permitted or the zoning district ceases to exist, the Community Development Office will work with the petitioner to amend the rezoning petition to the least intense zoning district that allows the desired land use.
 3. The process used for the rezoning petition shall be consistent with the new zoning ordinance.
- C. Any application before the Board of Zoning Appeals (i.e. special exception, use variance, development standards variance) that has been filed with the Board of Zoning Appeals or Community Development Office, and is full and complete, prior to the effective date of this Zoning Ordinance, shall:
 1. Be considered by the BZA primarily based on the development standards, permitted uses, and special exception uses allowed in the old zoning ordinance.
 2. Be considered by the BZA secondarily based on the development standards, permitted uses, and special exception uses allowed in the new zoning ordinance.
 3. If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms of this Zoning Ordinance that were not required under the previous Ordinances, the application will be amended to include only those additional approvals that are now required and within the jurisdiction of the Board of Zoning Appeals.

1.12 Saving Provision

This Zoning Ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning, subdivision, or related ordinance. This Zoning Ordinance shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

Zoning Districts

1.13 Establishment of Standard Districts

Each of the standard districts in this Zoning Ordinance stand alone and are not a part of a hierarchy or pyramidal system of zoning. Only those land uses expressly permitted for each district apply to that zoning district. Similarly, only the development standards listed on the two page layout and cross referenced in the "Additional Development Standards that Apply" box apply to that zoning district. A standard district shall be labeled on the Butler Zoning Map using a two or three-digit label. The City of Butler Plan Commission jurisdiction is divided into the following zoning districts for the general uses as stated:

SFR—Single Family Residential (Page 2-2 and 2-3)

This district is established for single-family homes and neighborhoods.

MFR—Multifamily Residential (Page 2-4 and 2-5)

This district is established for multifamily developments and residential neighborhoods of mixed densities.

OTR—Old Town Residential (Page 2-6 and 2-7)

This district is established to accommodate existing single-family neighborhoods built on smaller lots with smaller setbacks and access provided by a traditional gridiron street pattern and alleys.

MHC—Mobile Home Community (Page 2-8 and 2-9)

This district is established for leased lot developments (typically mobile or manufactured home parks) which typically lease dwelling sites for single and/or double wide manufactured homes.

NB—Neighborhood Business (Page 3-2 and 3-3)

This district is established for small businesses that serve the immediate neighborhoods.

GB—General Business (Page 3-4 and 3-5)

This district is established for general business uses, retail uses, and offices.

LI—Light Industrial (Page 3-6 and 3-7)

This district is established for small and light manufacturing facilities and warehouse facilities.

HI—Heavy Industrial (Page 3-8 and 3-9)

This district is established for all size manufacturing facilities.

INS—Institutional and Office (Page 4-2 and 4-3)

This district is established for institutional uses and low intensity office uses that are compatible with residential uses.

REC—Open Space and Recreation (Page 4-4 and 4-5)

This district is established for open space and recreational opportunities.

AG—Agricultural (Page 4-6 and 4-7)

This district is established for land within the City's extraterritorial jurisdiction that is agricultural and has future development potential.

1.14 Establishment of Overlay District

An overlay district has been established to add or remove land uses and/or development standards which will better help the City of Butler accomplish the goals of the Comprehensive Plan. The overlay district shall be labeled on the Butler Zoning Map using a four-digit label. For the purpose of this ordinance, the following overlay district has been established for the general uses as stated:

WP-OL—Wellhead Protection Overlay District (Page 5-2)

This district is designed to add an extra layer of protection for the City's underground water source.

1.15 Authorization to Subdivide

The subdivision of land may occur in the following zoning districts:



Zoning Districts

1.16 Permitted Land Uses

Land uses may be permitted uses as listed in each standard zoning district. Land uses indicated as "permitted uses" shall be allowed in that district. Butler's permitted uses for each district are noted in the "Permitted Use" box in Article Two (Residential Districts), Article Three (Business and Industrial Districts) and Article Four (Institutional and Other Districts).

1.17 Special Exception Uses

Land uses may be special exception uses as listed in each standard zoning district. Butler's special exception uses for each district are noted in the "Special Exception Use" box in Article Two (Residential Districts), Article Three (Business and Industrial Districts) and Article Four (Institutional and Other Districts). Special exceptions are permitted when all of the required findings of fact are made by the Butler Board of Zoning Appeals after a public hearing. The process and criteria for special exception uses is located in Section 8.11.

1.18 Unlisted or Questionable Land Uses

Any land use not listed or that is questionable as a "Permitted Use" or "Special Exception Use" in Article Two (Residential Districts), Article Three (Business and Industrial District) and Article Four (Institutional and Other Districts) is not allowed unless the Community Development Office determines that the unlisted or questionable land use is significantly similar to another land use that is permitted by right or as a special exception. See Section 8.14.

Zoning Map

1.19 Official Zoning Map

The map labeled “Butler Zoning Map” is hereby included as part of this Zoning Ordinance and is to function as the means to identify a zoning district for each parcel in the City. The zoning map shall be formally known as the “Butler Zoning Map” and it may be cited and referred to as the “Official Zoning Map” or the “Zoning Map.”

The Official Zoning Map is located in the office of the Butler City Plan Commission. Copies of the Official Zoning Map are available to interested persons for a fee based on the fee schedule located in Title Nine of the Butler City Code.

1.20 Jurisdiction

The City of Butler has zoning jurisdiction over property within the City limits and the remainders of Section 1, Section 2, Section 11, Section 12, the northeast quarter of Section 10, and the east half of Section 3 all in Wilmington Township.

1.21 Zoning District Boundaries

The zoning district boundaries shall be shown on the Official Zoning Map.

1.22 Regular Revisions

The Official Zoning Map should be formally revised as the Plan Commission determines necessary. Hand drawn lines and text on the Official Zoning Map will be appropriate to note zoning changes until the formal electronic version of the Official Zoning Map can be updated and printed for public display. Revisions may be made at any time to correct drafting or clerical errors and omissions in the map, but shall not have the effect of amending the Official Zoning Map.

1.23 Damaged, Destroyed or Lost Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret due to the nature or number of changes, the City Council may, by resolution, adopt a new Butler Zoning Map which shall, to the extent possible, duplicate the accuracy of the damaged, destroyed or lost map.

1.24 Official Zoning Map Standards

When uncertainty exists as to the exact boundaries of any district as shown on the Butler Zoning Map, the following rules shall apply:

- A. District boundaries shown within or following roads or transportation rights-of-way shall be deemed to follow the centerline of the applicable right-of-way.
- B. District boundaries indicated as following section lines, quarter section lines, platted lot lines, or City corporation lines shall be construed as following such lines.
- C. District boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water shall be construed to follow such centerlines of such features.
- D. When the Community Development Office cannot definitely determine the location of a district boundary by center lines, by previous zoning map amendment ordinances, or by scale or dimensions of the Official Zoning Map, because the boundary does not clearly coincide with a property line, the Community Development Office may refuse action and the Plan Commission may interpret the location of the district boundary with reference to the scale of the Official Zoning Map and the purposes set forth in all relevant provisions of this Zoning Ordinance and the City's Comprehensive Plan.

1.25 Overlay District Applicability

The Overlay District boundaries on the Official Zoning Map shall be interpreted as follows:

- A. An overlay district shall be noted on the Butler Zoning Map with a hatch or textured pattern and be noted as such on the map legend.
- B. A lot that is fully covered (bounded) by an overlay district shall be interpreted to be applicable to the overlay district standards found in Article Five.
- C. A lot that is partially covered (transected) by an overlay district shall be interpreted to be applicable to the extent the lot area is covered by the overlay district.

Administration

1.26 Administrative Officer

The Community Development Office will have the primary responsibility for administration and enforcement of this Zoning Ordinance within the Plan Commission's planning jurisdiction.

1.27 Summary of Powers and Duties of the City Council

The powers and duties of the City Council are described below and provided for by Indiana State Statutes. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional.

A. City Council Duties Pertaining to Planning and Zoning:

1. Adopt, reject or amend the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Ordinance that have been certified and submitted by the Plan Commission.
2. Adopt, reject or amend proposals to amend or partially repeal the text of the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Ordinance that has been certified and submitted by the Plan Commission.
3. Adopt, reject or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission.
4. Adopt, reject or amend a fee schedule that has been proposed or amended and submitted by the Plan Commission.
5. Along with the Plan Commission, enforce regulations of the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance to the extent of the local Resolutions, Ordinances, and State of Indiana Law.
6. Other duties as mandated by Indiana State Statues.

B. City Council Powers Pertaining to Planning and Zoning:

1. Initiate amendments to the text of the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Ordinance by making said proposal to the Plan Commission.
2. Initiate amendments to the Official Zoning Map by making said proposal to the Plan Commission.
3. Other powers as permitted by Indiana State Statues.

1.28 Summary of Powers and Duties of the Plan Commission

The powers and duties of the Plan Commission are described below and provided for by Indiana State Statutes (IC 36-7-4-400). Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional.

A. Plan Commission Duties:

1. Adopt, maintain, follow and enforce a City Council approved Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance as authorized under Indiana State Law.
2. Adopt and maintain rules and procedures for holding meetings, holding public hearings, and administering and enforcing the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance.
3. Maintain records of all meetings, hearings, correspondences, and affairs of the Plan Commission.
4. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission.
5. Adopt and maintain a permitting process.
6. Certify and submit recommendations to the City Council including new versions of and revisions to the Comprehensive Plan, Zoning Ordinance, Subdivision Ordinance, and Official Zoning Map pursuant to the provisions of Indiana State Statutes providing for procedures to do so.
7. Maintain monetary and fiscal records of the Plan Commission.
8. Prepare and submit an annual budget to the City Council.
9. Approve or deny plats or replats of subdivisions.
10. Approve or deny request for waiver to the subdivision control regulations.
11. Approve or deny development plans and amendments to development plans.
12. Approve or deny proposed subdivision names in new developments.

Administration

13. Assign street numbers to new lots and structures, renumber lots and structures, assign names, and approve or deny proposed street names in new developments.
 14. Enforce regulations and follow procedures of the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance to the extent permitted by local Resolutions, Ordinances, and Indiana State Statutes.
 15. Other duties as mandated by Indiana State Statutes.
- B. Plan Commission Powers:
1. Establish advisory committees as necessary made up of city officials and the general public.
 2. Seek funding assistance through grant programs as necessary.
 3. Distribute copies or summaries of the Comprehensive Plan, Zoning Ordinance, or Subdivision Ordinance to the general public and development community.
 4. Other powers as permitted by Indiana State Statutes.

1.29 Summary of Powers and Duties of the Board of Zoning Appeals

The powers and duties of the Board of Zoning Appeals are described below and provided for by Indiana State Statutes (Indiana Code 36-7-4-900). Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional.

- A. Board of Zoning Appeals Duties:
1. Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative official, staff member or administrative board other than the Plan Commission, in relation to the enforcement of the Zoning Ordinance.
 2. Hear and determine special exceptions to the terms of the Zoning Ordinance, upon which the Board of Zoning Appeals is required to act, under the ordinance.
 3. Authorize exceptions to the district regulations only in the classes of uses or in particular situations as specified in this ordinance.
 4. Authorize, on appeal in specific cases, such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest.
 5. Other duties as mandated by Indiana State Statutes.

Certification

1.30 Plan Commission Certification

This Zoning Ordinance was certified for adoption on March 14, 2005 by the City of Butler Plan Commission after holding a legally announced public hearing. This Zoning Ordinance was certified and validated by the following Plan Commission members vote.

Signatures:

THE PLAN COMMISSION OF BUTLER, DEKALB COUNTY, INDIANA

AYE

NAY

_____	Duard Bellamy, President	_____
_____	Tammy Davis, Member	_____
_____	Chad Depew, Member	_____
_____	Robert Haywood, Member	_____
_____	Dianna Holmes, Member	_____
_____	Sandy Lechleidner, Member	_____
_____	Mike Mayer, Member	_____
_____	Ron Walter, Member	_____

Attest:

_____ Date: _____
Catharine S. Minehart, Clerk-Treasurer, City of Butler, Indiana



Adoption

1.31 Adoption/Effective Date

The Zoning Ordinance shall become effective on April 4, 2005.

Signatures:

THE CITY COUNCIL OF BUTLER, DEKALB COUNTY, INDIANA

AYE

NAY

Floyd Coburn,
Mayor

Ron Walter,
President

Tammy Davis,
Member

Eric Johnson,
Member

Mike Mayer,
Member

Ken Olin,
Member

Attest:

_____ Date: _____
 Catharine S. Minehart, Clerk-Treasurer, City of Butler, Indiana

