

CHAPTER 151-TITLE AND GENERAL PROVISIONS

151.01 SHORT TITLE.

This Ordinance, and Ordinances supplemental or amendatory thereto, shall be known, and may be cited hereafter, as the Zoning, Subdivision Control, and Thoroughfare Plan Ordinances of Bremen, Indiana.

151.02 PURPOSE.

The purpose of this document is to regulate and restrict the location and use of buildings, structures and land for commerce, industry, residence, and for institutions and open spaces, or other specified uses; to set forth standards of design and construction for all public and private improvements and developments; to regulate and limit the height and area of buildings and other structures; to regulate and determine the size of yards and open spaces; to regulate and limit density of population; to divide the community into districts, and establishing the boundaries thereof; providing for changes in the regulations and boundaries of those districts; defining certain terms used herein; providing for enforcement, and imposing penalties for the violation of ordinances contained in this document.

151.03 INTERPRETATION.

- (A) In their interpretation and application, the provisions of this chapter will be held to be the minimum requirements for the promotion of the health, safety, comfort, prosperity, convenience, morals or general welfare of the community.
- (B) Where the conditions imposed by any provision of this document upon the use of land or buildings, are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this document or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards of requirements shall govern.
- (C) This chapter is not intended to abrogate any easement, covenant, or any other private agreement, provided that where the regulations of the document are more restrictive or impose higher standards or requirements than such easements, covenants, or private agreements, the requirements of this chapter shall govern.

151.04 SEVERABILITY.

It is hereby declared to be the intention of the Town of Bremen that the several provisions of this document are severable, in accordance with the following:

- (A) Should any Section or Provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such judgment shall not affect the validity of the Ordinance as a whole or any portion thereof, other than the portion specifically declared in the judgment to be invalid.
- (B) If any court of competent jurisdiction shall declare any Section or Provision of this Ordinance invalid in its application to a particular property, building, or other structure, that judgment shall not affect the application of that Section or Provision to any other property, building, or structure not specifically included in the judgment.

151.05 SCOPE OF REGULATIONS.

- (A) All buildings or structures erected, all uses of land, buildings, or structures established hereafter, all structural alteration, enlargement, or relocation of existing buildings or structures occurring hereafter, shall be subject to all the regulations of this document which are applicable to the zoning districts in which the buildings, structures, uses, or land shall be located. The regulation of this document shall apply to the construction of all improvements including but not limited to : fences, dish antennas, decks, pools (above and below ground) and accessory buildings.
- (B) Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this document, and provided that construction is begun within six months of the effective date and diligently prosecuted to completion, that building or structure may be completed in accordance with the approved plans on the basis of which the building permit had been issued. The building or structure may, upon completion, be occupied under a Certificate of Occupancy for the use by which originally designated, subject thereafter, if applicable, to the provisions herein for nonconforming buildings, structures and uses.

151.06 ESTABLISHMENT AND CONTROL.

- (A) New uses. In all districts, all buildings or structures erected, all uses of land, buildings or structures established hereafter, all structural alteration, enlargement, or relocation of existing buildings or structures occurring hereafter shall be subject to all regulations of this document which are applicable to the zoning districts in which the buildings, structures, uses or land shall be located, unless a variance is granted by the Board of Zoning Appeals.
- (B) Existing uses. In all districts after the effective date of the document, the existing use of any existing lot, building or other structure may be continued or changed, enlarged or extended, reconstructed or relocated only in accordance with all applicable regulations of this document.

151.07 NONCONFORMING USE SPECIFICATIONS.

The purpose of this Section is to regulate and limit the continued existence of uses and structures lawfully established prior to the effective date of this Ordinance that do not conform to these regulations. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this Chapter, with the effective date referenced below being the date this Ordinance rendered the a particular use, structure, or lot nonconforming.

151.08 IDENTIFICATION OF USE.

- (A) Any lawfully established use of a building or land established prior to the effective date of this Ordinance, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use, and may be continued, except as otherwise provided herein.
- (B) Normal repair and maintenance may be performed to allow the continuation of a nonconforming use, building or structure.
- (C) A nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located

or by the occupation of additional lands.

- (D) The structure in which a nonconforming use is located shall not be moved unless the use thereafter shall conform to the standards of the zone district or districts to which it is moved.

151.09 CHANGE OF USE.

A nonconforming use of a building, structure or land may not be changed to any use except one which conforms to the zoning district in which it is located. The Board of Zoning Appeals may permit a change to a use which is similar in nature, as long as the use generates no more traffic or customers as the original use, and that no more land is utilized for the new use than that which was used for the original use.

151.10 DISCONTINUANCE OF USE.

If a lawful nonconforming building, structure or use is abandoned or discontinued for a continuous period of one (1) year or longer, the subsequent use of the property shall be in conformity with the provisions of the district in which the use is located.

151.11 RESTORATION OF NONCONFORMING STRUCTURES.

Any lawfully nonconforming structure which has been involuntarily damaged or destroyed by fire, explosion, wind, or other similar active cause, to an extent of not more than 50% of its fair market value, may be reconstructed for the same use and in the same location provided that:

- (A) The reconstructed building or structure shall not exceed the height, area or volume of the damaged or destroyed structure or building.
- (B) Reconstruction shall begin within six months from the date of the damage or destruction, and shall be carried out without interruption.
- (C) If reconstruction will not be uniform with the previous design and construction of the building or structure, then the reconstruction will conform to the provisions set forth for the district in which it is located.

151.12 REPAIRS AND ALTERATIONS.

- (A) Normal maintenance of a building or structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.
- (B) No structural alterations shall be made in a building or other structure containing a nonconforming use, except in the following situations:
 - (1) When the alteration is required by law;
 - (2) When the alteration will result in eliminating the nonconforming use;
 - (3) When a building containing residential nonconforming uses may be altered in any way to improve livability, provided no structural alterations will be made that will increase the number of dwelling units or the bulk of the building.

151.13 TERMINATION AND REMOVAL OF NONCONFORMING USE AND STRUCTURES.

Any nonconforming open use of land shall be discontinued within five (5) years from the date of passage of the ordinance.

151.14 NONCONFORMING LOTS.

When two (2) or more parcels of land, each of which lacks adequate dimensions and area to qualify for a permitted use under the requirements of the district in which they are located, are contiguous and held in one ownership, they shall be used as one zoning lot for such use.

151.15 REPEAL OF EXISTING ORDINANCES; CERTIFICATION OF NEW ORDINANCES.

All previously enacted zoning ordinances are hereby repealed. Upon adoption by the Common Council these Ordinances are hereby Certified as the Official Master Plan Ordinances for Bremen, Indiana. This Ordinance shall become effective on _____, 1992.