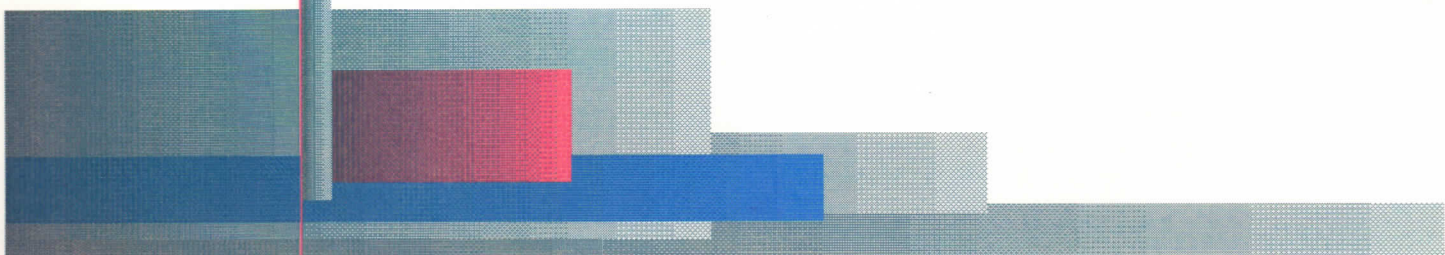


SECTION 1



SECTION 1

General Provisions and Enforcement

THE ZONING ORDINANCE
OF
THE TOWN OF WINSLOW, INDIANA
Ord. No. ___

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR WINSLOW, INDIANA AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 138, INDIANA ACTS OF 1957, AS AMENDED, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, Indiana Code 36-7-4, Series 600, as amended, empowers the (town, city, county) to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Winslow Plan Commission, the Town Council of Winslow, Indiana, deem it necessary for the purpose of promoting the health, safety, convenience, and general welfare of the community to enact such an ordinance, and

WHEREAS, pursuant to the provisions of I.C. 36-7-4, Series 900, as amended, a Board of Zoning Appeals has been created to recommend and to carry out its powers and duties as described under I.C. 36-7-4-918, as amended, and

WHEREAS, the Winslow Plan Commission has divided all areas of the town into districts and has prepared regulations pertaining to such districts in accordance with an adopted comprehensive plan designed to lessen congestion in public streets; to secure safety from fire, flood, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, and

WHEREAS, the Winslow Plan Commission has given reasonable consideration, among other things, to the present character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and lands and encouraging the most appropriate use of land throughout the town, and

WHEREAS, the Winslow Plan Commission has made studies and held public hearings thereon, pursuant to law, and submitted its final report to the town, and

WHEREAS, the Winslow Plan Commission has given due public notices of hearings (pursuant to said I.C. 36-7-4) relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

WHEREAS, all requirements of I.C. 36-7-4, as amended, with regard to the preparation of the report of the Winslow Plan Commission and the subsequent action necessary to enact this ordinance by the town have been met.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF WINSLOW, INDIANA AS FOLLOWS:

1.1 Title

These regulations shall hereafter be known and cited as the Zoning Ordinance of Winslow, Indiana.

1.2 Interpretation, Conflict and Separability

A In their interpretation and application the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

B. Conflict with Public and Private Provisions

i. **Public Provisions.** The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall control.

ii. **Private Provisions.** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. Private provisions can only be enforced privately unless a public agency such as the Town Council or Plan Commission has been made a party to such agreements.

iii. **Separability.** If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The town hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

1.3 Saving Provision

This ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing zoning ordinance, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the Town of Winslow under any section or provision existing at the time of the effective date of this ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Town of Winslow, except as shall be expressly provided for in this ordinance.

1.4 Exclusion

Nothing in this Ordinance or in any rules, regulations or orders issued pursuant to this Ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, plan commission or board of zoning appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana or by any state agency, or the use of property owned or occupied by the State of Indiana or any state agency. As used in this section, the term "state agency" shall mean and include all state agencies, boards, commissions, departments, and institutions, including state universities of the State of Indiana.

1.5 Effective Date

This ordinance takes effect _____.

1.6 Repealer

Upon the adoption of this ordinance according to law, any zoning ordinance that may have been adopted and or amended by the Town of Winslow and any prior zoning maps that may have been adopted or amended are hereby repealed.

1.7 Amendments

For the purpose of providing for the public health, safety, and general welfare, the Town, on recommendation of the Commission, may from time to time amend the text of this ordinance and/or the zoning map(s) incorporated by reference in this ordinance. Public hearings on all proposed amendments shall be held by the Commission and/or the Town in the manner prescribed by law.

1.8 Enforcement, Violation, and Penalties

- A. It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the Town Attorney who may file a complaint against the person and prosecute the alleged violation.
- B. Any person may, by suit in a circuit or superior court of the county, enjoin the violation of this Ordinance.
- C. The Advisory Board of Zoning Appeals by mandatory injunction in the circuit court of the county against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this Ordinance, or the removal of any use or condition in violation of this Ordinance.
- D. A use that violates this Ordinance shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land, or premises upon which the use is maintained shall be liable for such nuisance.
- E. Any person whether owner or possessor, who shall violate, or who permits or allows a violation, of any of the provisions of this Ordinance, or who fails to comply therewith or with any requirements thereunder, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted upon which an approval or grant is given under this Ordinance, shall, upon complaint filed in any court of the county and upon judgment finding such violation, be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00), and each day that such violation or noncompliance shall be permitted to exist, shall constitute a separate violation.

- F. No Improvement Location Permit or Building Permit required under the Uniform Building Code or this ordinance shall be issued on any property subject to this ordinance in violation of the provisions of this ordinance.
- G. **Attorney's Fees.** Notwithstanding anything contained in this Ordinance to the contrary or appearing to be to contrary, and in addition and supplementary to other provisions of this Ordinance, if the Board of Zoning Appeals or the town is required to utilize the services of the town attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this Ordinance pursuant to § 1.8C, 1.8D or 1.8E, or any other section, before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or Town is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding, the respondent, defendant or party investigated for a violation shall pay the town's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Ordinance, unless such attorney fees or costs are specifically waived by the Council of the Town of Winslow.
- H. **Costs on Appeal.** As to any appeal from a decision of the Board of Zoning Appeals, costs may not be allowed against the Board of Zoning Appeals unless it appears to the court that the Board acted with gross negligence or in bad faith in making the decision brought up for review.
- I. The Administrator, his staff or any person or persons assisting the Administrator in the application and enforcement of this Ordinance is hereby authorized to go onto private property for the purpose of conducting inspections required by the Ordinance or any order of the Plan Commission and Board of Zoning Appeals, or required to determine if this Ordinance is being violated, or required to enforce this Ordinance. Such inspection or inspections shall occur at reasonable times and shall be conducted in a manner not to disturb the peace.

1.9 Designation Of The Administrator

The Town of Winslow hereby designates its Utility Superintendent as the Administrator for the purposes of implementing this ordinance and has the principal responsibility for enforcing this ordinance.