

#ZORD-2023-0006

BILL NO. G-23-10-21

ORDINANCE NO. Z-_____

**AN ORDINANCE amending Chapter 157
of the City of Fort Wayne Municipal Code**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
INDIANA:

SECTION 1. That the current Chapter 157 (Zoning Ordinance), Sections 157.203 through 157.224 (Zoning Districts); Section 157.404 (Development Design Standards); Section 157.405 (Development Standards Waivers and Exceptions); Section 157.503 (Procedures); and Section 157.506 (Definitions) are hereby amended as follows.

Amendment SU1 - 157.203(C) through 157.211(B)

Container homes are not a clearly defined use, and are currently treated as a Manufactured Home Type III; allow for Container Homes, a definition for Container Home has been added, and the use has been added as a special use option in the following districts: A1, AR, R1, R2, R3, RP, MHS, DE, and UC. Container Home was added as a specific permitted use in the MHP districts.

Amendment DS1 - 157.203(E) through 157.224(E)

There is no lot frontage standard in the residential and agricultural zoning districts; added a statement for: Lot width "at front lot line" to clarify the standard for A1, A3, and AR. Added a standard for lot width "(25' at front lot line)" in the applicable residential zoning districts (R1, R2, R3, RP, and MHS); added standards to clarify the lot width at front line for public sewer (25') and private sewage disposal (120').

Amendment PU1 - 157.212(B) through 157.224(B)

"Office, Professional" is not listed as a specific permitted use; added "Office, Professional" as a specific permitted use in the following districts: C1, C2, NC, SC, C3, C4, UC, BTI, I1, I2 and I3.

Amendment DS3 - 157.212(E) through 157.224(E)

There is a difference in height standards for residential and nonresidential buildings in commercial and industrial districts; standard was updated to have one height limit for all primary or accessory buildings or structures.

Amendment DDS1 - 157.404(R)

There is an issue with a "standard" being listed under the "exceptions" section, and an "exception" listed under the "standards" section in the Lighting-Development Design Standards chapter; switched the placement of §157.404(R)(1)(d) with §157.404(R)(2)(b). §157.404(R)(1)(d) "Lighting for outdoor recreational uses such as ..." ((standard)). §157.404(R)(2)(b) "Except for the portion of the property adjoining a ..." ((exception)).

Amendment DSW1 - 157.405

There is a difference between the AC zoning ordinance and the FW ordinance regarding an allowance for permitting a 15 foot rear yard in cases where the yard backs into a common area for Major Subdivisions; updated §157.405(A) to add: ", except that for a Major Subdivision, the Plan Commission may allow a reduced rear yard setback of no less than 15 feet for lots that are adjacent to common area."

Amendment PRO1 - 157.503(D)(3)(h)

Container homes are not a clearly defined use and are currently treated as a Manufactured Home Type III; to allow for Container Homes as a special use, additional special use standards and provisions have been added.

Amendment DEF1 - 157.506(B)

The abbreviation BZA is used throughout the ordinance but not defined; added the acronym BZA to the definition of Board of Zoning Appeals.

Amendment DEF2 - 157.506(B)

There is a requirement for a child care home operator to live on a premise where a child care home is permitted; to allow for flexibility with permitted daycare or child care home uses, changed the definition to state: "the home shall be a primary residence."

Amendment DEF3 - 157.506(B)

Container homes are not a clearly defined use, and are currently treated as a Manufactured Home Type III; to allow for Container Homes in certain districts, a definition for Container Home has been added.

Amendment DEF4 - 157.506(B)

There is a requirement for a daycare provider to live in the residence where a daycare is permitted; to allow for flexibility with permitted daycare or child care home uses, changed the definition to state: "the home shall be a primary residence." and to clarify that the use is "an accessory use to a residential building".

Amendment DEF5 - 157.506(B)

"Plan Commission" and "Commission" and definitions do not point to each other. The abbreviation PC is used throughout the ordinance but not defined; added the acronym (PC) and (see "Commission") to the definition of Plan Commission. Deleted the repeated definition of Plan Commission.

Amendment DEF6 - 157.506(B)

There is confusion regarding what constitutes a portable storage container; added "shipping container" to the definition to clarify.

Amendment DEF7 - 157.506(B)

There is confusion over what items constitute recycling materials for a Recycling Processing Facility; added: "metal, computer, and electronic equipment," to the definition.

SECTION 2. That this Ordinance, after its passage and approval by the Mayor, shall be in full force and effect starting on January 10, 2024.

Council Member

APPROVED AS TO FORM AND LEGALITY:

Malak Heiny, City Attorney



DEPARTMENT OF PLANNING SERVICES

Citizens Square
200 East Berry Street, Suite 150
Fort Wayne, Indiana 46802

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MEMORANDUM

To: Fort Wayne Common Council
From: Department of Planning Services – Sarah Jones; Senior Land Use Planner
Date: October 18, 2023
Subject: Introduction – 2023 Fort Wayne Zoning Ordinance Technical Amendment

This letter serves to inform the Fort Wayne Common Council that the 2023 Fort Wayne Zoning Ordinance Technical Amendment will be heard by the Fort Wayne Plan Commission on November 13th, 2023.

The proposed Zoning Ordinance Amendment will subsequently be brought to the Fort Wayne Common Council for discussion and vote.

The purpose of this amendment is to amend multiple sections of the zoning ordinance, to:

- 1) Clarify language that is not clear based on the use of the ordinances so far; and
- 2) Address issues that have come up since the effective date of the last technical amendment, September 1, 2022.

Staff would be happy to answer any questions regarding this proposed amendment.

Sarah Jones, AICP
Senior Planner | Special Projects
Department of Planning Services

2023 County and Fort Wayne Zoning Ordinance Technical Amendments Summary

This set of technical amendments is proposed to:

- 1) Clarify language that is not clear based on the use of the ordinances so far; and
- 2) Address issues that have come up since the effective date of the last technical amendment, September 1, 2022.

A summary of the proposed 2023 technical amendments is below; the proposed effective date is January 10th, 2024. To maintain alignment with the County and Fort Wayne, the Grabill, Huntertown, Monroeville and Woodburn ordinances will also be amended.

Draft Summary of Amendments			
No.	Keyword/Reference AC/FW	Issue	Proposed Amendments
Title 2 Article 3 CP1	Comprehensive Plan AC (5)	A new Comprehensive Plan was adopted by Allen County on March 13, 2023.	Updated reference from Plan-It Allen to All In Allen, updated language to reflect new chapter content, and updated adopted adoption date to March 13, 2023.
SU1	Special Uses AC (14 et al) FW (18 et al)	157.203 (C) et al 3-2-3-3 (a) et al Container homes are not a clearly defined use, and are currently treated as a Manufactured Home Type III. <i>See Comparison Use Table (page 3)</i>	To allow for Container Homes, a definition for Container Home has been added, and the use has been added as a special use option in the following districts: A1, AR, R1, R2, R3, RP, MHS, DE, and UC. Container Home was added as a specific permitted use in the MHP districts.
DS1	Development Standards AC (18 et al) FW (21 et al)	There is no lot frontage standard in the residential and agricultural zoning districts.	Added a statement for: Lot width “at front lot line” to clarify the standard for A1, A3, and AR. Added a standard for lot width “(25’ at front lot line)” in the applicable residential zoning districts (R1, R2, R3, RP, and MHS); added standards to clarify the lot width at front line for public sewer (25’) and private sewage disposal (120’).
DS2	Development Standards AC (26)	There is a standard for a side yard, interior lot on public sewer: “7 feet if the lot is less than 150 feet wide”, however lots in the A3 district are not permitted to be less than 150 feet wide.	Deleted this standard.
PU1	Permitted Uses AC (59 et al) FW (64 et al)	“Office, Professional” is not listed as a specific permitted use. <i>See Comparison Use Table (page 3)</i>	Added “Office, Professional” as a specific permitted use in the following districts: C1, C2, NC, SC, C3, C4, UC, BTI, I1, I2 and I3.
DS3	Development Standards AC (63 et al) FW (67 et al)	There is a difference in height standards for residential and nonresidential buildings in commercial and industrial districts.	Standard was updated to have one height limit for all primary or accessory buildings or structures.
SUB1	Subdivision Control AC (154)	There is no process for Certificate of Exempt Subdivision in Allen County.	Deleted ‘Certificate of Exempt Subdivision’ item A.C.C. 3-3-3-3(b)(2)

Draft Summary of Amendments			
No.	Keyword/Reference AC/FW	Issue	Proposed Amendments
DDS1	Development Design Standards (lighting) AC (183-184) FW (213)	There is an issue with a “standard” being listed under the “exceptions” section, and an “exception” listed under the “standards” section in the Lighting-Development Design Standards chapter.	Switched the placement of AC 3-4-4-18 (a)(4) with AC 3-4-4-18 (b)(2). - AC 3-4-4-18 (a)(4) “Lighting for outdoor recreational uses such as ...” ((<i>standard</i>)) - AC 3-4-4-18 (b)(2) “Except for the portion of the property adjoining a ...” ((<i>exception</i>)) Did the same with §157.404(R)(1)(d) and §157.404(R)(1)(d) for the Fort Wayne ordinance.
DDS2	Development Design Standards (lighting) AC (184)	It is unclear when uplighting can be permitted.	Added a standard to clarify when uplighting can be permitted: “(2) Uplighting shall be permitted provided the light fixture is directed and shielded so that no light is emitted beyond the building façade.”
DSW1	§157.405(A) Development Standards Waivers and Exceptions FW (225)	There is a difference between the AC zoning ordinance and the FW ordinance regarding an allowance for permitting a 15 foot rear yard in cases where the yard backs into a common area for Major Subdivisions.	Updated §157.405(A) to add: “, except that for a Major Subdivision, the Plan Commission may allow a reduced rear yard setback of no less than 15 feet for lots that are adjacent to common area.”
PRO1	Container Home AC (307 & 314) FW (350 & 356)	157.503(D)(3)(h) 3-5-3-4(c)(9) Container homes are not a clearly defined use and are currently treated as a Manufactured Home Type III.	To allow for Container Homes as a special use, additional special use standards and provisions have been added.
DEF1	Board of Zoning Appeals AC (344) FW (388)	The abbreviation BZA is used throughout the ordinance but not defined.	Added the acronym BZA to the definition of Board of Zoning Appeals.
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DEF4	Day Care, Child AC (354) FW (398)	There is a requirement for a daycare provider to live in the residence where a daycare is permitted.	To allow for flexibility with permitted daycare or child care home uses, changed the definition to state: “the home shall be a primary residence.” and to clarify that the use is “an accessory use to a residential building”.

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DEF6	Portable Storage Container AC (385) FW (428)	There is confusion regarding what constitutes a portable storage container.	Added “shipping container” to the definition to clarify.
DEF 7	Recycling Processing Facility AC (387) FW (430)	There is confusion over what items constitute recycling materials for a Recycling Processing Facility.	Added: “metal, computer, and electronic equipment,” to the definition.

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Allen County Comparison Use Table																	
Changes to the Allen County Permitted and Special Use provisions shall be made as shown in the Use Comparison Table below:																	

Allen County Permitted Uses	A1	A3	R1	R2	R3	MHS	MHP	C1	C2	NC	SC	C3	C4	BTI	I1	I2	I3
<u>Container Home</u>	<u>S</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>										
<u>Office, Professional</u>								<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

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S = Special Use

Draft Summary of Amendments																	
Fort Wayne Comparison Use Table																	
Changes to the Fort Wayne Permitted and Special Use provisions shall be made as shown in the Use Comparison Table below:																	

Fort Wayne Permitted Uses	AR	R1	R2	R3	RP	MHS	MHP	C1	C2	NC	SC	C3	C4	DC	DE	UC	BTI	I1	I2	I3
<u>Container Home</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>								<u>S</u>	<u>S</u>				
Office, Professional								<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	P	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

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City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Ordinance Amendment
Case Number(s): ZORD-2023-0006
Bill Number: G-23-10-21
Council District: all

Introduction Date: October 24, 2023

Plan Commission
Public Hearing Date: November 13, 2023 (not heard by Council)

Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

Synopsis of Ordinance: A proposal to amend the Fort Wayne Zoning Ordinance (Chapter 157)
See attached amendment summary.

Location: Within the planning jurisdiction of Fort Wayne.

Applicant: The Fort Wayne Plan Commission

Related Petitions: A similar amendment is being proposed to the Allen County Zoning Ordinance.

Effect of Passage: This set of technical amendments is proposed to:

- 1) Clarify language that is not clear based on the use of the ordinances so far; and
- 2) Address issues that have come up since the effective date of the last technical amendment, September 1, 2022.

Effect of Non-Passage: The City of Fort Wayne will not address the issues identified with regard to the zoning ordinance.

FACT SHEET

Case #ZORD-2023-0006 Bill # G-23-10-21 Project Start: October 2023

PROPOSAL:	Amendment to Chapter 157 of the Fort Wayne City Code
APPLICANT:	Fort Wayne Plan Commission
REQUEST:	To adopt an amendment to the Fort Wayne Zoning Ordinance, which amends or repeals and replaces the text of the following Sections: Section 157.202 (Permitted Uses) Section 157.203 through 157.212 (Zoning Districts) Section 157.404 (Development Design Standards) Section 157.405 (Development Standards Waivers and Exceptions) Section 157.503 (Procedures) Section 157.506 (Definitions)
AFFECTED AREA:	City of Fort Wayne planning jurisdiction
COUNCIL DISTRICT:	All
SPONSOR:	City of Fort Wayne Plan Commission

November 13, 2023 Public Hearing

- No one spoke in support or with concerns.
- Tom Freistroffer, Karen Richards, and Ryan Neumeister were absent.

November 20, 2023 Business Meeting

Plan Commission Recommendation: DO PASS

A motion was made by Rachel Tobin-Smith and seconded by Paul Sauerteig to return the ordinance with a Do Pass recommendation to Common Council for their final decision.

8-0 MOTION PASSED

Fact Sheet Prepared by:
Karen Couture, Associate Land Use Planner
November 21, 2023

PROJECT SUMMARY

This public hearing is for the next phase of the ordinance update and alignment project. This project has been ongoing since April of 2009 with the Joint Land Use Governing Board recommendation to the Plan Commissions that initiated the project. The Joint Permitting Oversight Board provided funding to hire Clarion Associates who began work in January 2012.

The fourth phase of the project involved the completion and adoption of the replacement zoning ordinances. The replacement ordinances were heard by both the Allen County and Fort Wayne Plan Commissions in October of 2013; both Plan Commissions recommended approval of the ordinances in November of 2013. In January of 2014 the County Commissioners approved the replacement County ordinance, with amendments. On January 15th of 2014 the County Plan Commission approved the ordinance as amended.

During Clarion's work on the ordinances, the consultant consistently brought up the fact that once the ordinances were adopted and used by the community and by staff, there would be issues that would come up with the language.

That has proven to be the case, as staff has identified issues and items in the following areas:

1. Clarify language that is not clear based on the use of the ordinances; and
2. Address issues that have come up since the effective date of the last technical amendment (9/1/2022).

The proposed amendments are listed in the attached summary; a redlined version of the amendments is on the DPS website. A copy of the redlined version will be distributed at the hearing. The summary shows which pages will be affected in each ordinance. For the most part, these amendments will be made to both the Fort Wayne and Allen County zoning ordinances; the summary indicates which amendments affect only one ordinance. The proposed effective date of these amendments is January 10, 2024.

To maintain alignment with the County and Fort Wayne, the Grabill, Huntertown, Monroeville and Woodburn ordinances will also be amended in the near future.

PUBLIC HEARING SUMMARY:

Presenter: Dave Schaab, Principle Planner for Special Projects, presented the request as outlined above.

Public Comments:

None

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

ZORD-2023-0006

Amendment to Chapter 157 of the Fort Wayne City Code

APPLICANT: Fort Wayne Plan Commission

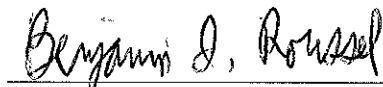
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- Section 157.503 (Procedures)
- Section 157.506 (Definitions)

AFFECTED AREA: City of Fort Wayne planning jurisdiction

The Plan Commission recommends that Zoning Ordinance Amendment ZORD-2023-0006 be returned to Council with a “Do Pass” recommendation.

These findings approved by the Fort Wayne Plan Commission on November 20, 2023.



Benjamin J. Roussel
Executive Director
Secretary to the Commission

2023 County and Fort Wayne Zoning Ordinance Technical Amendments Summary

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<u>Office, Professional</u>								<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

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Amendment DS3 - 157.212(E) through 157.224(E)

There is a difference in height standards for residential and nonresidential buildings in commercial and industrial districts; standard was updated to have one height limit for all primary or accessory buildings or structures.

Amendment DDS1 - 157.404(R)

There is an issue with a "standard" being listed under the "exceptions" section, and an "exception" listed under the "standards" section in the Lighting-Development Design Standards chapter; switched the placement of §157.404(R)(1)(d) with §157.404(R)(2)(b). §157.404(R)(1)(d) "Lighting for outdoor recreational uses such as ..." ((standard)). §157.404(R)(2)(b) "Except for the portion of the property adjoining a ..." ((exception)).

Amendment DSW1 - 157.405

There is a difference between the AC zoning ordinance and the FW ordinance regarding an allowance for permitting a 15 foot rear yard in cases where the yard backs into a common area for Major Subdivisions; updated §157.405(A) to add: ", except that for a Major Subdivision, the Plan Commission may allow a reduced rear yard setback of no less than 15 feet for lots that are adjacent to common area."

Amendment PRO1 - 157.503(D)(3)(h)

Container homes are not a clearly defined use and are currently treated as a Manufactured Home Type III; to allow for Container Homes as a special use, additional special use standards and provisions have been added.

Amendment DEF1 - 157.506(B)

The abbreviation BZA is used throughout the ordinance but not defined; added the acronym BZA to the definition of Board of Zoning Appeals.

Amendment DEF2 - 157.506(B)

There is a requirement for a child care home operator to live on a premise where a child care home is permitted; to allow for flexibility with permitted daycare or child care home uses, changed the definition to state: "the home shall be a primary residence."

Amendment DEF3 - 157.506(B)

Container homes are not a clearly defined use, and are currently treated as a Manufactured Home Type III; to allow for Container Homes in certain districts, a definition for Container Home has been added.

Amendment DEF4 - 157.506(B)

There is a requirement for a daycare provider to live in the residence where a daycare is permitted; to allow for flexibility with permitted daycare or child care home uses, changed the definition to state: "the home shall be a primary residence." and to clarify that the use is "an accessory use to a residential building".

Amendment DEF5 - 157.506(B)

"Plan Commission" and "Commission" and definitions do not point to each other. The abbreviation PC is used throughout the ordinance but not defined; added the acronym (PC) and (see "Commission") to the definition of Plan Commission. Deleted the repeated definition of Plan Commission.

Amendment DEF6 - 157.506(B)

There is confusion regarding what constitutes a portable storage container; added "shipping container" to the definition to clarify.

Amendment DEF7 - 157.506(B)

There is confusion over what items constitute recycling materials for a Recycling Processing Facility; added: "metal, computer, and electronic equipment," to the definition.

SECTION 2. That this Ordinance, after its passage and approval by the Mayor, shall be in full force and effect starting on January 10, 2024.

Council Member

APPROVED AS TO FORM AND LEGALITY:

Malak Heiny, City Attorney