31.00  General Provisions.

31.01  Violations and Penalties.  

31.01.01 A failure to comply with any of the requirements of this Ordinance, including violations of conditions and safeguards established in connection with the granting of variances, special uses or Planned District Development Plan approvals, shall constitute a violation of this Ordinance.

31.01.02 The Commission, the Board, the Director or any designated enforcement official or any person or persons, firm or corporation jointly or severally aggrieved, may institute a suit for injunction in any court of competent jurisdiction to restrain an individual or a governmental unit from violating the provisions of this Ordinance.

31.01.03 The Commission, the Board or the Director may also institute a suit for mandatory injunction directing any individual, firm, corporation, or governmental unit to remove a structure erected in violation of the provisions of this Ordinance.

31.01.04 Any building erected, raised or converted, or land or premises used in violation of any provisions of this Ordinance or of the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

31.01.05 Any person, firm, or corporation, whether as principal, agent, employee or otherwise, who violates this Zoning Ordinance is subject to the penalties provided in Chapter 34: Zoning Violations.

31.01.06 The owner or tenant of any buildings, structure, premises or part thereof, and any architect, builder, contractor, realtor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

31.02  Severability.

If any section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion of this Ordinance shall be found to be unconditional or invalid by any Court of competent jurisdiction, such finding or decision shall not affect or impair the validity of this Ordinance as a whole or any part thereof other than the section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion so held to be unconstitutional or invalid.
31.03 **Conflicting Ordinances**

31.03.01 Unless otherwise specifically stated within this Ordinance, whenever any provision of this Ordinance or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by any other provision of this Ordinance, the more stringent provision shall govern.

31.03.02 Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal code or regulation or other City ordinance or regulation, specifically the Uniform Building Code, One and Two Family Building Code, Uniform Plumbing Code, and the National Electrical Code, the provision of this Ordinance shall govern.

31.03.03 Whenever any provision of any State or Federal statute or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by this Ordinance, the provision of such State or Federal statute or other City ordinance shall govern.

31.04 **Non-Interference**

It is not the intent of this Ordinance to interfere with, abrogate or annul any easements, covenants, or other agreements between parties, or to interfere with, abrogate or annul any ordinances, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or provided; however, where this Ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per dwelling unit than are imposed or required by other easements, covenants or agreements between parties or by such ordinances, rules, regulations, or permits, the provisions of this Ordinance shall govern.

31.05 **Effective Date**

The Zoning Ordinance of the City of Carmel, Indiana, as herein presented, shall be in full force and effect from and after its passage by the City Council of the City of Carmel, Indiana, on ____, 1990.

On this date, **Ordinance No. Z-160**, passed by the City Council of the City of Carmel, Indiana, on January 21, 1980, and all amendments thereto, are hereby repealed and all other ordinances or parts thereof which are in conflict with the terms and conditions of this Ordinance are hereby repealed.

31.06 **Amendments to the Zoning Ordinance**

31.06.01 Definitions.

Terms used in this Ordinance are defined in **Chapter 3: Definitions**.

31.06.02 Proposals to Amend or Partially Repeal the Text of the Ordinance.

The following procedure applies to a proposal to amend or partially repeal the text (not zone maps) of this Zoning Ordinance:

1. The proposal may be initiated by either the Commission or the Council; however, if the Council initiates the proposal, it shall require the Commission to prepare it.

2. The Commission shall prepare the proposal so that it is consistent with applicable state law.

3. In considering the proposal, both the Commission and the Council shall pay reasonable regard to:
   i. the Comprehensive Plan;
   ii. current conditions and the character of current structures and uses in each district;
   iii. the most desirable use for which the land in each district is adapted;
   iv. the conservation of property values throughout the City and the Township; and

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2 Section 31.03 amended per Ordinance No. Z-369-02, §bj.

3 Section 31.06 amended per Ordinance No. Z-316; Z-335; Z-416-03, §bj-k; Z-460-04, §c; Z-475-05, §b; Z-558-12; Z-578-13; Z-622-17.
4. The Commission shall give notice and hold a public hearing on the proposal in accordance with its Rules of Procedure.

5. Within ten (10) business days after the Commission determines its recommendation (if any), the Commission shall certify the proposal to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation from the Commission.

6. The Council shall vote on the proposal within ninety (90) days after the Commission certifies the proposal. The Council’s consideration of the proposal is governed by IC 36-7-4-607.

7. If the proposal is adopted, the Commission shall print the amendments to the Zoning Ordinance in book or pamphlet form, or arrange for them to be included in the City’s Code of Ordinances.

8. Unless the proposal provides for a later effective date, the amendments contained in the proposal take effect when the proposal is duly adopted, except for any provision prescribing a penalty or forfeiture for a violation, which may not take effect until the Commission complies with the applicable notice and filing requirements described in IC 36-7-4-610.

31.06.03 Proposals to Change the Zone Maps Incorporated into the Ordinance.

The following procedure applies to a proposal to change the zone maps (whether by incorporating an additional map or by amending or deleting a map) incorporated by reference into this Zoning Ordinance:

1. The proposal may be initiated either:
   a. by the Commission;
   b. by a petition signed by property owners who own at least fifty percent (50%) of the land involved; or
   c. by the Council; however, if the Council initiates the proposal, it shall require the Commission to prepare it.

2. The Commission or petitioners shall prepare the proposal so that it is consistent with applicable state law.

3. In considering the proposal, both the Commission and the Council shall pay reasonable regard to:
   i. the Comprehensive Plan;
   ii. current conditions and the character of current structures and uses in each district;
   iii. the most desirable use for which the land in each district is adapted;
   iv. the conservation of property values throughout the City and the Township; and
   v. responsible development and growth.

4. The Commission shall give notice and hold a public hearing on the proposal in accordance with its Rules of Procedure.

5. Whenever the Commission deems it advisable in regard to the matters contained in Subparagraph (3) above, the Commission may permit or require the owner of a parcel of real property to make a Commitment subject to the rules prescribed for Commitments by Section 31.06.05. By permitting or requiring a Commitment, the Commission does not become obligated to recommend or not recommend the adoption of the proposal.

6. Within five (5) business days after the Commission determines its recommendation (if any), the Commission shall certify the proposal to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation from the Commission.

7. The Council shall vote on the proposal within ninety (90) days after the Commission certifies the proposal. The Council’s consideration of the proposal is governed by IC 36-7-4-608.

8. During the time when the proposal is being considered by the Council, the owner of a parcel of land may make a new Commitment or modify the terms of a Commitment made when the proposal was before the Commission. No further action of the Commission is required for a new Commitment to be
effective. If a Commitment made when the proposal was before the Commission is modified and the
effect of the modification is to make the Commitment more stringent, no further action of the
Commission is required for the modified Commitment to be effective; however, if the effect of such a
modification is to make the Commitment less stringent, then the modified Commitment must be ratified
by the Commission to be effective. A Commitment made or modified under this provision is subject to
the rules prescribed for Commitments by Section 31.06.05.

9. If the proposal is adopted, the Commission shall update the zone maps that it keeps available with the
Zoning Ordinance and the City’s Code of Ordinances.

10. Unless the proposal provides for a later effective date, the updated zone maps contained in the proposal
take effect when the proposal is duly adopted.

31.06.04 Proposals to Adopt or Amend Planned Unit Development District Ordinances.
The following procedure applies to a proposal to adopt or amend a PUD District Ordinance:

1. **Initiation.** The proposal must be initiated by a petition signed by property owners who own all of the
land to be included in the Planned Unit Development District.

2. **Definition.** The petitioners shall prepare the proposal so that it is consistent with the definition of a
PUD District Ordinance provided in Chapter 3: Definitions.

3. **Decision Criteria.** In considering the proposal, both the Commission and the Council shall pay
reasonable regard to:
   a. the extent to which the PUD District Ordinance provides (1) a mixed use development or (2)
      addresses unusual site conditions or surroundings;
   b. the Comprehensive Plan and any other applicable, adopted planning studies or reports;
   c. the extent to which the proposal fulfills the general purposes of the Subdivision Control and
      Zoning Ordinances;
   d. current conditions and the character of current structures and uses in each district and its
      surroundings;
   e. the most desirable use for which the land in each district is adapted;
   f. the conservation of property values throughout the City and the Township, and
   g. responsible development and growth.

4. **District Ordinance.** The District Ordinance shall be the governing document for the development of the
Planned Unit Development. The District Ordinance and corresponding exhibits may be formatted to no
larger than ledger or tabloid sized (11”x 17”) pages and shall conform to the following:
   a. **Cover Page and Table of Contents.** The cover page shall include the Docket Number and,
      when applicable, the Council Ordinance number, the title of the PUD District, and the
      submittal date. A Table of Contents shall identify all sections and exhibits included in the
      District Ordinance. (See Sample Outline & Ordinance – available in the Department of
      Community Services).
   b. **Development Requirements.** The District Ordinance shall clearly indicate in text and/or map
      form the subject location as well as the permitted uses and development requirements to be
      applied to the real estate. The District Ordinance shall include, but is not limited to:
      i. Concept Plan, which defines the boundaries of the PUD District, delineates any sub-
         districts or planning areas and which also illustrates building areas, parking areas and
         the basic street and connectivity patterns within the project.
      ii. Land Uses proposed, including a specific list of permitted uses in the PUD District or,
          when applicable, within each sub-district.
      iii. Transportation Systems, including plans for thoroughfares, bicycle and pedestrian
          connectivity, as well as specifications for each.
      iv. Open Spaces, including minimum acreage and overall percentage.
v. Natural Features, including any streams, regulated drains, floodplains, wetlands, wooded areas or preserved trees.
vi. Lot Area, Building Height and Setback Standards.
viii. Lighting Standards.
ix. Landscaping Requirements.
x. Sign Standards.
xi. Parking Requirements.
 xii. Definitions.
 xiii. Approval Process, including a list of approvals required prior to obtaining an Improvement Location Permit, e.g. Development Plan, ADLS, Primary Plat, Secondary Plat, Modification procedures.
xiv. Violations & Enforcement.
 xv. Schedule of Exhibits, including all text and/or maps required to describe, depict, illustrate or characterize any of the project details. Any Conditions or Commitments required per Subparagraph 7, shall also be included in the Schedule of Exhibits.

c. Any portion of the Carmel Subdivision Control or Zoning Ordinance may be referenced in the District Ordinance. However, the Subdivision Control and/or Zoning Ordinance shall govern in instances where the PUD District Ordinance is silent.
d. The Council Signature Page shall occur at the end of the District Ordinance, following all exhibits and appendices necessary to describe, regulate and illustrate the PUD District.

5. Supplemental Information. In addition to the District Ordinance and its exhibits, the following additional information shall be submitted to aid in the review of the PUD District:

a. PUD Comparison Exhibit. A table completed by the Department which compares the proposed District Ordinance development requirements to the requirements of the existing zoning District and surrounding neighborhood(s).
b. Character Renderings. One or more renderings shall be submitted which illustrate the style of the architecture and other site details proposed in the PUD District and sub-district.
c. Vicinity Map. A map that shows adjacent use(s) and zoning district(s).
d. Existing Site Conditions. A description and/or map of existing conditions on the subject property, including structures, streets, trails, established open spaces, utility lines, easements, topography, natural features, or any other feature that may influence the design of the development.
e. Historic Structures and Features. A description and/or map of historic structures and features, as determined by the Hamilton County Interim Report or Carmel Historic Preservation Commission.


7. Conditions & Commitments.

a. When adopting or amending a PUD District Ordinance, the Council may impose reasonable conditions on a Planned Unit Development.
b. Whenever the Commission deems it advisable in regard to the matters contained in Subparagraph (12: Modifications) or (3: Decision Criteria) herein, the Commission may permit or require the owner of a parcel of real property to make a Commitment subject to the rules prescribed for Commitments by Section 31.06.05. By permitting or requiring a Commitment, the Commission does not become obligated to recommend or not recommend the adoption of the proposal.

c. During the time when the proposal is being considered by the Council, the owner of a parcel of land may make a new Commitment or modify the terms of a Commitment made when the proposal was before the Commission. No further action of the Commission is required for a new Commitment to be effective. If a Commitment made when the proposal was before the Commission is modified and the effect of the modification is to make the Commitment more stringent, no further action of the Commission is required for the modified Commitment to be effective; however, if the effect of such a modification is to make the Commitment less stringent, then the modified Commitment must be ratified by the Commission to be effective. A Commitment made or modified under this provision is subject to the rules prescribed for Commitments by Section 31.06.05.

d. To the extent that any of the required Conditions or Commitments is a direct alteration of a development requirement listed in the District Ordinance, then the District Ordinance shall be amended to reflect the required Commitment.

8. Certification. Within ten (10) business days after the Commission determines its recommendation (if any), the Commission shall certify the proposal to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation from the Commission.

9. Council Action. The Council shall vote on the proposal within ninety (90) days after the Commission certifies the proposal. The Council’s consideration of the proposal is governed by IC 36-7-4-608 and IC 36-7-4-1512.

10. Maps. If the proposal is adopted, the Commission shall update the zone maps that it keeps available with the Zoning Ordinance and the City’s Code of Ordinances to reflect the designation of the parcel as a Planned Unit Development District.

11. Effective Date. Unless the proposal provides for a later effective date, the PUD District Ordinance takes effect when the proposal is duly adopted.

12. Modification.

a. The same procedure as is contained in Section 31.06.02 for the amendment or partial repeal of the Zoning Ordinance applies to a proposal to amend or partially repeal the text of a PUD District Ordinance.

b. No alterations from an approved Development Plan, ADLS, or Primary Plat may be made except those that comply with all applicable development standards contained in the PUD District Ordinance, or those that are approved in accordance with Subparagraph c or d below.

c. The Plan Commission may, after a public hearing, grant a Zoning Waiver of any of the dimensional standards of the PUD District Ordinance, by less than ten percent (10%) of the specified standard. Any approval of such waiver is subject to the following criteria:

i. The proposal shall be in harmony with the purposes and land use requirements contained in the District Ordinance.

ii. The proposal shall complement the overall development plan and the adjoining streetscapes and neighborhoods.

iii. The proposal shall not produce a site plan or street/circulation system that would be impractical or detract from the appearance of the PUD District, and must not adversely affect emergency access in the area.

d. The Board of Zoning Appeals may also review and approve Variances from the terms of the PUD District Ordinance, pursuant to Chapter 30.
31.06.05 Rules Governing Commitments.

In addition to the requirements of IC 36-7-4-1015, all Commitments shall comply with the following:

1. **Form.** A Commitment must be in substantially the form set forth in the Commission’s Rules of Procedure, and must identify any specially affected persons or class of specially affected persons who may enforce the Commitment. A Commitment must authorize its recording by the Director in the Office of the Hamilton County Recorder.

2. **Recording; Copies.** A Commitment shall be recorded in the office of the Hamilton County Recorder and takes effect upon the adoption of the proposal to which it relates. Following the recording of a Commitment, the Director shall return the original recorded Commitment to the owner and shall retain a copy of the recorded Commitment in the Commission’s file. All necessary subsequent approvals, including but not limited to Development Plans, Plats, and Improvement Location Permits will be withheld pending receipt of the recorded Commitment. Failure to return a recorded Commitment within thirty (30) days shall nullify the Commission’s approval.

31.06.06 Rules Governing Reconsideration. The Commission may adopt a rule to limit further consideration, for up to one (1) year after its defeat, of any proposal that is defeated under the Advisory Planning Law. The Commission may also adopt a rule to limit consideration, for up to six (6) months after the withdrawal or defeat of any proposal, of any other proposal involving the same property that was the subject of the withdrawn or defeated proposal.

31.07 Failure of Commission or Board to Establish a Vote

A vote establishing conclusive approval or denial on a matter before the Plan Commission or the Board of Zoning Appeals shall require a majority vote. A majority vote of the Plan Commission shall require concurrence of more than half of the members of the entire Commission. A majority vote of the Board of Zoning Appeals shall require concurrence of more than half of the members of the entire Board. In the event that a majority vote is not reached, and no conclusive approval or denial can be granted, the party seeking a decision by the Board or Commission can request placement on the agenda of the subsequent month's meeting. This request must be in written form and given to the appropriate authorities in the Director's office.

31.08 Copies on File.

Two copies of the Zoning Ordinance and the Subdivision Control Ordinance of the City of Carmel, Indiana, as they may be amended from time to time, shall be filed in the office of the Clerk-Treasurer and shall be available for public viewing during normal office hours. The Clerk-Treasurer shall also keep additional copies of these ordinances in the office for the purpose of sale or distribution.

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4 Section 31.08 amended per Ordinance No. Z-558-12.
## CHARTER 31: GENERAL PROVISIONS
### AMENDMENT LOG

<table>
<thead>
<tr>
<th>Ordinance No.</th>
<th>Docket No.</th>
<th>Council Approval</th>
<th>Effective Date</th>
<th>Sections Affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Z-316</td>
<td>86-96 OA</td>
<td></td>
<td>December 23, 1996</td>
<td></td>
</tr>
<tr>
<td>Z-335</td>
<td>3-99 OA</td>
<td></td>
<td>June 7, 1999</td>
<td></td>
</tr>
<tr>
<td>Z-365-01</td>
<td>76-01a OA</td>
<td>November 5, 2001</td>
<td>November 27, 2001</td>
<td>31.1.5</td>
</tr>
<tr>
<td>Z-369-02</td>
<td>160-01 OA</td>
<td>April 1, 2002</td>
<td>April 1, 2002</td>
<td>31.3 Spring 2002 v2</td>
</tr>
<tr>
<td>Z-416-03</td>
<td>40-02 OA</td>
<td>November 17, 2003</td>
<td>November 18, 2003</td>
<td>31.06 Autumn 2003 v1</td>
</tr>
<tr>
<td>Z-460-04</td>
<td>04080064 OA</td>
<td>December 20, 2004</td>
<td>December 20, 2004</td>
<td>31.06.06 Winter 2005 v1</td>
</tr>
<tr>
<td>Z-475-05</td>
<td>05010007 OA</td>
<td>March 7, 2005</td>
<td>March 7, 2005</td>
<td>31.06.04 Winter 2005 v2</td>
</tr>
<tr>
<td>Z-558-12, as amended</td>
<td>12010005 OA</td>
<td>November 5, 2012</td>
<td>November 5, 2012</td>
<td>31.06.05; 31.08 Autumn 2012 v1</td>
</tr>
<tr>
<td>Z-578-13, as amended</td>
<td>13010013 OA</td>
<td>September 16, 2013</td>
<td>September 16, 2013</td>
<td>31.06.04 Summer 2013 v1</td>
</tr>
<tr>
<td>Z-622-17, as amended</td>
<td>16100021 OA</td>
<td>August 7, 2017</td>
<td>August 7, 2017</td>
<td>31.06.03 Summer 2017 v1</td>
</tr>
</tbody>
</table>