

## ORDINANCE 20-1381

### AN ORDINANCE OF THE CITY OF WOODBURN, INDIANA COMMON COUNCIL AMENDING CHAPTER 154.412 (FLOODPLAIN) OF THE CITY OF WOODBURN, STATE OF INDIANA, ORDINANCE

**WHEREAS**, the City Council of the City of Woodburn (the “City”), State of Indiana, pursuant to Indiana Code Section 36-7 et. seq., as amended, has authority to plan for and regulate the use and zoning of real property located within its municipal boundaries; and,

**WHEREAS**, the City Council desires to update the City zoning ordinance by aligning it with Allen County and the City of Fort Wayne zoning ordinances, and

**WHEREAS**, the Allen County Plan Commission serves as the Plan Commission for the City; and,

**WHEREAS**, the Allen County Department of Planning Services serves as the Land Use staff for the City; and,

**WHEREAS**, the Allen County Department of Planning Services staff prepared the amendment titled ZORD-2019-0009 and presented it to the Plan Commission; and,

**WHEREAS**, the Allen County Plan Commission published the required notice and held a public hearing on this proposed text amendment on the 9<sup>th</sup> day of January, 2020; and,

**WHEREAS**, after deliberating, the Plan Commission resolved to recommend that the City:

Amend Chapter 154.412 of the City of Woodburn Code of Ordinances by:

#### 1. **Change the definition of substantial Improvement:**

**Existing:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “repetitive loss” or “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to

correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a “historic structure”, provided that the alteration will not preclude the structures continued designation as a “historic structure”.

**Proposed:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “repetitive loss” or “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

## **2. Change adverse effects paragraph:**

**Existing:** (C) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

**Proposed:** (C) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

## **3. Delete (f)**

**Existing:** (f) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**Proposed:** (f) Reserved

**WHEREAS**, the Allen County Plan Commission held a business meeting on the 16<sup>th</sup> day of January 2020 and took action on the submitted text amendments; and,

**WHEREAS**, the Allen County Plan Commission, pursuant to I.C. Section 36-7-4-605(a)(2), by a vote of 9-0, certified the proposed text amendments with a DO PASS recommendation to the Woodburn City Council;

**NOW THEREFORE, BE IT ORDAINED** by the Woodburn City Council that, as the legislative body of the City of Woodburn, Indiana, the City Council concurs with the Plan Commission's recommendation and hereby approves and adopts the replacement of Chapter 152; repeals Chapter 153; and, replaces Chapter 154 of the Woodburn Code of Ordinances, all as attached hereto.

Adopted and Ordained this 3<sup>rd</sup> day of February, 2020.

**< SIGNATURES ON NEXT PAGE >**

## WAIVER OF SECOND READING

On motion duly made and seconded, the second reading of the foregoing Ordinance was unanimously waived. After a motion to adopt the Ordinance was properly made, the results of which are below, the Ordinance was deemed effective as of the date of passage due to a majority vote of yea and approval of the Mayor.

### COMMON COUNCIL OF THE CITY OF WOODBURN, INDIANA

By: Michael Voirol YEA x NAY \_\_\_\_\_ ABS \_\_\_\_\_  
Michael Voirol, Councilor

By: Michael Martin YEA ✓ NAY \_\_\_\_\_ ABS \_\_\_\_\_  
Michael Martin, Councilor

By: Tonya Thompson YEA x NAY \_\_\_\_\_ ABS \_\_\_\_\_  
Tonya Thompson, Councilor

By: Dean Gerig YEA ✓ NAY \_\_\_\_\_ ABS \_\_\_\_\_  
Dean Gerig, Councilor

By: Daniel Watts YEA x NAY \_\_\_\_\_ ABS \_\_\_\_\_  
Daniel Watts, Councilor

#### ATTEST:

By: Timothy Cummins  
Timothy Cummins, Clerk-Treasurer

The foregoing ordinance passed by the Council is signed and approved (x) / not approved ( ) by me on the same date.

By: Joseph Kelsey  
Joseph Kelsey, Mayor for the City of Woodburn



**COMES NOW** the Advisory Plan Commission of the County of Allen, State of Indiana, pursuant to authority vested in it by Indiana Code § 36-7-4 et.seq., and adopts the following resolution.

**Resolution of the  
Allen County Plan Commission**

**WHEREAS** the Allen County Plan Commission directed the staff of the Allen County Department of Planning Services to prepare amendment ZORD-2019-0009 to amend Chapter 154.412 (Floodplain) of the Woodburn Zoning Ordinance; and,

**WHEREAS** the Allen County Department of Planning Services pursued this direction and provided the proposed text to the Allen County Plan Commission; and

**WHEREAS** the Allen County Department of Planning Services provided for publication of a public hearing notice on the proposed amendment to the plan in *The Journal Gazette*, according to law; and,

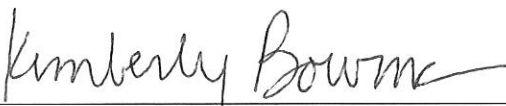
**WHEREAS** the Allen County Plan Commission conducted a public hearing on the proposed amendment on 9 January 2020; and,


**WHEREAS** the Allen County Plan Commission considered the amendment in light of the existing comprehensive plan, community needs and desires, and state and federal floodplain requirements; now, therefore,

**BE IT RESOLVED** by the Allen County Plan Commission, meeting in open session, to send a DO PASS recommendation to the Woodburn City Council regarding the proposed amendment to Chapter 154.412 (Floodplain) of the Woodburn Zoning Ordinance;

**BE IT FURTHER RESOLVED** that the Executive Director of the Allen County Department of Planning Services be directed to execute this Resolution on behalf of the Allen County Plan Commission and to present a copy of it to the Woodburn City Council.

**ADOPTED THIS** 16<sup>th</sup> day of January 2020.

  
\_\_\_\_\_  
Kimberly R. Bowman, AICP  
Executive Director, ACDPS  
Secretary to the Allen County Plan Commission

  
\_\_\_\_\_  
Date of Signature

## FACT SHEET

Petition #ZORD-2019-0009      Project Start: December 2019	
APPLICANT:	Allen County Plan Commission
REQUEST:	Amend Chapter 154.412 of the City of Woodburn Code – Floodplain Ordinance
AFFECTED AREA:	City of Woodburn

### 9 January 2020 Public Hearing

- No one spoke at the public hearing with concerns.
- James Wolffe was absent.

### 16 January 2020 Business Meeting

#### Plan Commission Recommendation: Do Pass

- A motion was made by Tom Harris and seconded by Adam Day to return the ordinance to the City of Woodburn for their final decision.
- Richard Beck, Jeff Sorg and James Wolff were absent.
- **6-0 MOTION PASSED**

Fact Sheet Prepared by:  
Michelle B. Wood, Senior Land Use Planner  
January 27, 2020

Reviewed By:



Kimberly R. Bowman, Executive Director  
Secretary to the Commission

## PROJECT SUMMARY

To keep the City within compliance with IDNR, FEMA, and maintaining alignment with the other jurisdictions in the County, the City approved the repeal and replacement Zoning Ordinance in 2018. IDNR has requested the following changes to the Chapter 154.412 (Floodplain).

### 1. Change the definition of substantial Improvement:

**Existing:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

**Proposed:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

### 2. Change adverse effects paragraph:

**Existing:** (c) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

**Proposed:** (c) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

### 3. Delete (f)

**Existing:** (f) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**Proposed:** (f) Reserved

The Plan Commission initiated this request in October 2019. The effective date is proposed to be April 8, 2020.

## PUBLIC HEARING SUMMARY:

Presenter: Paul Blisk, Deputy Land Use Director, presented the request as outlined above.

Public Comments:

None