

TITLE 10
LAND USE PLANNING AND ZONING

TITLE 10

LAND USE PLANNING AND ZONING

Chapters:

- 10.01 Advisory Plan Commission**
- 10.04 Comprehensive Plan**
- 10.06 Zoning Ordinance**
- 10.13 Licensing requirements and regulations for sexually oriented business**

Chapter 10.01

ADVISORY PLAN COMMISSION

Sections:

- 10.01.010 Establishment**
- 10.01.020 Purpose**
- 10.01.030 Membership**
- 10.01.040 Term of office**
- 10.01.050 Vacancies**
- 10.01.060 Official action**
- 10.01.070 Conflict of interest**
- 10.01.080 Organization**
- 10.01.090 Duties**

10.01.010 Establishment. There is hereby established the Town of Grandview Advisory Plan Commission under the authority of IC 36-7-4-200 et seq., and herein shall be known as the "Commission". (Ord. 1997-7-1, S1, July 7, 1997) (Ord. 1982-10-4, S1, Oct. 4, 1982) (Ord. 1980-3-3, Mar. 3, 1980)

10.01.020 Purpose. The fundamental purpose of the Commission is to coordinate efforts to promote and improve the health, safety, and welfare of the citizens and to plan for the future development of the community. (Ord. 1997-7-1, S2, July 7, 1997)

10.01.030 Membership.

- (1) Town Council Appointees. The Town Council shall appoint three persons who must be elected or appointed municipal officials or employees in the municipal government. (Ord. 1997-7-1, S3A, July 7, 1997) (Ord. 1982-10-4, S3, Oct. 4, 1982)
- (2) Town Council President Appointees. The Town Council President shall appoint four citizen members, of whom no more than two may be of the same political party. A citizen member must be a resident of the jurisdictional area of the Commission and may not hold other elective or appointive office in municipal, county, or state government. (Ord. 1997-7-1, S3B, July 7, 1997)

10.01.040 Term of office.

- (1) Town Council Appointees. The term of office of a member who is appointed by the Town Council is coextensive with the member's term of office with the town government. (Ord. 1997-7-1, S4A, July 7, 1997)

- (2) Town Council President Appointees. Two citizen members shall initially be appointed by the Town Council President for a term of three years and two shall initially be appointed for a term of four years. When an initial term of office of a citizen member expires, each new appointment of a citizen member is for a term of four years. (Ord. 1997-7-1, S4B, July 7, 1997)
- (3) Term Expiration. Each member's term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment. A member serves until the member's successor is appointed and qualified. A member is eligible for reappointment. (Ord. 1997-7-1, S4C, July 7, 1997)

10.01.050 Vacancies. If a vacancy occurs among the Commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. (Ord. 1997-7-1, S5, July 7, 1997)

10.01.060 Official action. Action of the Commission is not official, unless it is authorized, at a regular or special meeting, by a majority of the entire membership of the Commission. (Ord. 1997-7-1, S6, July 7, 1997)

10.01.070 Conflict of interest. A member of the Commission may not participate as a member in a hearing or decision of the Commission concerning a zoning matter in which the member has a direct or indirect financial interest. The Commission shall enter in its records the fact its member has such a disqualification. A member may not directly or personally represent another person in a hearing before the Commission concerning a zoning matter. As used in this Section, "zoning matter" does not include the preparation of a comprehensive plan. (Ord. 1997-7-1, S7, July 7, 1997)

10.01.080 Organization.

- (1) President and Vice President. At its first regular meeting in each year, the Commission shall elect from its members a president and a vice president. The vice president may act as president of the Commission during the absence or disability of the president. (Ord. 1997-7-1, S8A, July 7, 1997)
- (2) Secretary. The Commission shall appoint and may fix the duties of a secretary, who is not required to be a member of the Commission. (Ord. 1997-7-1, S8B, July 7, 1997)
- (3) Meetings and minutes. The Commission shall fix the time for holding regular meetings each month or as necessary. The Commission shall keep minutes of its meetings. The minutes of

Commission meetings and all records shall be filed in the office of the Commission and are public records. Special meetings of the Commission may be called by the president or by two members of the Commission upon written request to the secretary. The secretary shall send to all members, at least three days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the date, time, and place of such meeting are fixed in a regular meeting and all members of the Commission are present at that regular meeting. (Ord. 1997-7-1, S8C, July 7, 1997)

10.01.090 Duties.

- (1) Recommendations to the Town Council. The Commission shall make recommendations to the Council concerning the adoption, development, and amendments to the Comprehensive Plan, the Zoning Ordinance, the official Zoning Map, and any other ordinances, plans, maps, and reports relating to the development of the Town. (Ord. 1997-7-1, S9A, July 7, 1997)
- (2) Final Authority for Approval. The Commission shall render decisions concerning the approving plats or replats of subdivisions, development or redevelopment plans, and the assignment of street numbers to lots and structures, the renumbering of lots and structures, and the naming and renaming of streets. (Ord. 1997-7-1, S9B, July 7, 1997)
- (3) Administrative. The Commission shall supervise, and make rules for, the administration of the affairs of the Commission, shall supervise the Zoning Administrator and other Commission staff, shall supervise the fiscal affairs of the Commission, and prepare and submit an annual budget to the Town Council. The Commission shall prepare, publish, and distribute reports, ordinances, and other material relating to authorized activities. The Commission shall prescribe uniform rules pertaining to investigations and hearings. (Ord. 1997-7-1, S9C, July 7, 1997)

Chapter 10.04

COMPREHENSIVE PLAN

Sections:

- 10.04.005 Adoption**
- 10.04.010 Title**
- 10.04.020 Authority**
- 10.04.030 Jurisdiction**
- 10.04.040 Purpose**
- 10.04.050 Severability**
- 10.04.060 Objectives for future development**
- 10.04.070 Land Use Policy**
- 10.04.080 Public Provisions Policy**

10.04.005 Adoption. The Town Council hereby adopts the Town of Grandview 1997 Comprehensive Plan as outlined in Section 10.04.010 – 10.04.080. (Res. No. 1997-7-1-TC, July 28, 1997)

10.04.010 Title. This Plan may be cited as the “Town of Grandview 1997 Comprehensive Plan,” except as referred to herein, where it shall be known as the “Plan”. (Res. 1997-7-1-TC, July 28, 1997)

10.04.020 Authority. This Plan is adopted pursuant to Indiana Code 36-7-4-500 et seq. as added by Pubic Law 309, Acts of 1981 of the General Assembly of Indiana, and all acts supplemental and amendatory thereto. (Res. 1997-7-1-TC, July 28, 1997)

10.04.030 Jurisdiction. This Plan is applicable to all territory located within the corporate limits of the Town of Grandview. (Res. 1997-7-1-TC, July 28, 1997)

10.04.040 Purpose. This Plan is established for the promotion of public health, safety, morals, convenience, order, and general welfare and for the sake of efficiency and economy in the process of development. (Res. 1997-7-1-TC, July 28, 1997)

10.04.050 Severability. If any section, clause, provision, or portion of this Plan is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Plan which is not of itself invalid or unconstitutional. If any application of any provision to particular circumstances is held invalid, the remainder of the Plan and the application of such provision to other circumstances shall not be affected. (Res. 1997-7-1-TC, July 28, 1997)

10.04.060 Objectives for future development. The Town of Grandview must ensure the best possible development in the area while maintaining the character that makes the community unique. The following are objectives for future development in the Town:

- (1) Maintain adequate public facilities for the support and benefit of the community;
- (2) Provide sufficient housing opportunities;
- (3) Encourage development in areas not subject to flooding;
- (4) Promote sustainable and environmentally sensitive development;
- (5) Advocate development which most effectively utilizes community resources; and
- (6) Continually assess the needs and desires of community residents. (Res. 1997-7-1-TC, July 28, 1997)

10.04.070 Land Use Policy. Land use guidelines are critical to the long term health of the Town. The policy of the Town shall be that land use development shall be in a manner consistent with the law, in good design and character, adequate and appropriate for both present and anticipated future needs, and in such a way as to promote and improve the health, safety, and welfare of the citizens and of the community. (Res. 1997-7-1-TC, July 28, 1997)

10.04.080 Public Provisions Policy. In addition to land use management, it is additionally important to ensure the proper development of public ways, places, lands, structures, and utilities. The policy of the Town shall be that the development of public provisions shall be in a manner consistent with the law, in good design and character, adequate and appropriate for both present and anticipated future needs, and in such a way as to promote and improve the health, safety, and welfare of the citizens and of the community. (Res. 1997-7-1-TC, July 28, 1997)

CHAPTER 10.06

**ZONING ORDINANCE
DATED: MAY 31, 1983**

ADOPTED: SEPTEMBER 12, 1983

(As amended by Ordinance 1997-7-2, July 28, 1997)
(As amended by Ordinance 1997-7-3, July 28, 1997)
(As amended by Ordinance 1998-unnumbered, June 1, 1998)

Sections:

10.06.010 INTRODUCTION

- 10.06.010.010** Basis for establishing
- 10.06.010.020** Provisions to be minimum requirements
- 10.06.010.030** Non-interference with greater restrictions otherwise imposed
- 10.06.010.040** Title
- 10.06.010.050** Buildings & uses affected by zoning
- 10.06.010.060** Definitions

10.06.020 ENFORCEMENT & ADMINISTRATION

- 10.06.020.010** Improvement location permit
- 10.06.020.011** Contents of application for permit
- 10.06.020.012** Approval of improvement location permit
- 10.06.020.013** Submission to state or local highway department
- 10.06.020.014** Expiration of the improvement location permit
- 10.06.020.020** Certificate of occupancy
- 10.06.020.021** Application for certificate of occupancy
- 10.06.020.030** Record of improvement location permits & certificates of occupancy
- 10.06.020.040** Permits issued in conflict with ordinance
- 10.06.020.050** Creation of the office of zoning administrator
- 10.06.020.051** Duties of the zoning administrator
- 10.06.020.060** Establishment of Plan Commission
- 10.06.020.070.1** Establishment of the BZA
- 10.06.020.070.2** Purpose of the BZA
- 10.06.020.070.3** Membership of the BZA
- 10.06.020.070.4** Term of office of the BZA
- 10.06.020.070.5** Vacancies of the BZA
- 10.06.020.070.6** Official action of the BZA
- 10.06.020.070.7** Conflict of interest of the BZA
- 10.06.020.070.8** Organization of the BZA
- 10.06.020.072** Powers and duties of the BZA
- 10.06.020.073** Duties of the Zoning Administrator, Board of Zoning Appeals, Town Council, and the courts on matter of appeals
- 10.06.020.080** Procedures and requirements for appeals and variances
- 10.06.020.081** Appeals

10.06.020.082	Review by certiorari
10.06.020.090	Variances
10.06.020.091	Application and standards for variances
10.06.020.092	Supplementary conditions and safeguards
10.06.020.093	Public hearing by the Board of Zoning Appeals
10.06.020.094	Notice of public hearing in newspaper
10.06.020.095	Notice to parties of interest
10.06.020.096	Action by Board of Zoning Appeals
10.06.020.100	Procedures and requirements for approval of special exception
10.06.020.101	General provisions
10.06.020.102	Contents of application for approval of special exception
10.06.020.103	Supplementary conditions and safeguards
10.06.020.104	Notice of public hearing
10.06.020.105	Action by Board of Zoning Appeals
10.06.020.106	Expiration of special exception permit
10.06.020.110	Penalties for violation
10.06.020.120	Schedule of fees, charges and expenses
10.06.030	ZONES ESTABLISHED
10.06.030.010	Establishment of zones
10.06.030.020	Interpretation of zone boundaries
10.06.040	ZONE REGULATIONS
10.06.040.010	Authorized uses and requirements
Table 1	Authorized uses
Table 2	Residential uses & district requirements - single family dwellings
Table 3	Residential uses & district requirements - multi-family dwellings
Table 4	Commercial & industrial requirements
10.06.040.020	FP flood plain zone: purpose
10.06.040.021	Basis for establishing flood plain zones
10.06.040.030	AG Agricultural zone
10.06.040.040	RS One and two family residential zone
10.06.040.050	GB general business zone
10.06.040.060	IN industrial zone
10.06.040.061	Other applicable permits required
10.06.045	FLOODPLAIN OVERLAY ZONING REGULATIONS
10.06.045.510	Floodplain Overlay District
10.06.045.511	Definitions
10.06.045.512	Duties of the Zoning Administrator of the Town
10.06.045.513	Regulatory Flood Elevation
10.06.045.514	Improvement Location Permit
10.06.045.515	Preventing Increased Damages
10.06.045.516	Protecting Buildings
10.06.045.517	Other Development Requirements
10.06.045.518	Variances
10.06.045.519	Disclaimer of Liability
10.06.045.520	Violations

10.06.045.521	Abrogation and Greater Restrictions
10.06.045.522	Separability
10.06.050 GENERAL PROVISIONS	
10.06.050.010	Conformance and permits required
10.06.050.020	Mobile Homes
10.06.050.040	Temporary uses: buildings, structures, transportable dwellings, and recreational vehicles
10.06.050.050	Mineral extraction
10.06.050.060	Permitted accessory uses
10.06.050.061	Requirements for accessory buildings in residential zones
10.06.050.070	Off-street parking & loading provisions
10.06.050.071	Off-street parking
10.06.050.072	Area required
10.06.050.073	Distance measurements
10.06.050.074	Mixed uses
10.06.050.075	Collective parking facilities
10.06.050.076	Off-street loading
10.06.050.077	Areas used to park, store or service motor vehicles
10.06.050.078	Permanency of spaces provided
10.06.050.080	Advertising devices
10.06.050.081	Improvement location permit required
10.06.050.082	Exception to Section 10.06.050.081
10.06.050.083	Size and location
10.06.050.090	General area provisions
10.06.050.091	Reduction of lot area
10.06.050.092	Recorded lots less than minimum area
10.06.050.093	Yards apply to only one building
10.06.050.094	Only one main building on lot
10.06.050.095	Corner setback
10.06.050.096	Front yards on a through lot
10.06.050.100	General height provision
10.06.050.110	Contingent uses (all districts)
10.06.060 EXCEPTIONS & MODIFICATIONS	
10.06.060.010	Special exceptions - specified zones
10.06.060.011	Permitted special exceptions
10.06.060.012	Considerations for any special exception
10.06.060.013	Authorization for continuance
10.06.060.020	Height
10.06.060.021	Three (3) story buildings in two (2) story zones
10.06.060.022	Through lots (one hundred fifty (150) feet or less in depth)
10.06.060.023	Through lots (more than one hundred fifty (150) feet in depth)
10.06.060.024	Structures permitted above height limit
10.06.060.030	Area and yards
10.06.060.031	Yard regulations modified

- 10.06.060.032 Front yard (between projecting buildings)
- 10.06.060.033 Front yard (adjoining projecting buildings)
- 10.06.060.034 Side yards waived
- 10.06.060.035 Front and side yards waived
- 10.06.060.036 Rear yard accessory building
- 10.06.060.037 Through lot may be considered as two (2) lots
- 10.06.060.038 Projection into yards
- 10.06.070 NONCONFORMING USES**
- 10.06.070.010 Continuance of nonconforming Buildings or uses
- 10.06.070.011 Nonconforming building or structures
- 10.06.070.012 Nonconforming use of buildings or structures
- 10.06.070.020 Amortization of nonconforming uses or buildings
- 10.06.070.030 Nonconforming due to reclassification
- 10.06.080 AMENDMENTS TO ORDINANCE & MAP**
- 10.06.080.010 Amendments or repeal
- 10.06.080.020 Amendment procedure
- 10.06.080.021 Initiation of zoning amendments
- 10.06.080.022 Contents of application
- 10.06.080.023 Transmittal to Plan Commission
- 10.06.080.024 Public hearing by Plan Commission
- 10.06.080.025 Notice of public hearing in newspaper
- 10.06.080.026 Notice to property owners by Plan Commission
- 10.06.080.027 Recommendation by Plan Commission.
- 10.06.080.028 Approval by the Town Council
- 10.06.080.030 Effective date
- 10.06.080.040 Affect of annexation
- 10.06.090 VALIDITY AND ADOPTION**
- 10.06.090.010 Severance clause
- 10.06.090.020 Effective date

**ZONING ORDINANCE
FOR THE TOWN OF GRANDVIEW, INDIANA**

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF GRANDVIEW, AND PROVIDING FOR THE ADMINISTRATION THEREOF

Be it ordained by the Town Council of the Town of Grandview, under authority of Indiana Code 36-7-4, of the General Assembly of the State of Indiana and all acts amendatory thereto: (As amended by Ordinance 1997-7-3, July 28, 1997) (Ord. 1983-unnnumbered, Sept. 12, 1983)

10.06.010 INTRODUCTION

10.06.010.010	Basis for establishing
10.06.010.020	Provisions to be minimum requirements
10.06.010.030	Non-interference with greater restrictions otherwise imposed
10.06.010.040	Title
10.06.010.050	Buildings and uses affected by zoning
10.06.010.060	Definitions

10.06.010.010 Basis for establishing. The zoning regulations and districts as herein set forth are made in accordance with a comprehensive master plan in order that adequate light, air, convenience of access, and safety from fire, flood and other danger may be secured; that congestion in the public streets may be lessened or avoided; and that public health, safety, comfort, morals, convenience and general public welfare may be promoted. They are made with reasonable regard to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted and the conservation of property values on all land under the jurisdiction this ordinance. (Ord. 1983-unnumbered, S1.010, Sept. 12, 1983)

10.06.010.020 Provisions to be minimum requirements. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of health, safety, morals, convenience or the general public welfare. The lot or yard areas required by this ordinance for a particular building shall not be diminished (other than by the Board of Zoning Appeals), and shall not be included as part of the required lot or yard areas of any other building. The lot or yard areas of buildings existing at the time this ordinance became effective shall not be diminished below the requirements herein provided for buildings hereafter erected and such required areas shall not be included as a part of the required areas of any building hereafter erected. (Ord. 1983-unnumbered, S1.020, Sept. 12, 1983)

10.06.010.030 Non-interference with greater restrictions otherwise imposed. It is not the intent of this ordinance nor should it be the result of this ordinance that any usage of land existing at the time or prior to the passage of this ordinance which was illegal or unlawful under former ordinances or regulations should become legal or lawful under the terms of this ordinance.

Nor is this ordinance intended to interfere with, abrogate or annul any easement, covenant, or other agreements between parties. Nor shall it interfere with, abrogate or annul any ordinance, rule, regulation or permit previously adopted or issued and not in conflict with any of the provisions of this ordinance, or which shall be adopted or provided, except, that where this ordinance imposes a greater restriction upon the use of buildings or land than are required or imposed by any easement, covenant or agreements between parties, or by any ordinance, rule, regulation or permit, the provisions of this ordinance shall control. (Ord. 1983-unnumbered, S1.030, Sept. 12, 1983)

10.06.010.040 Title. This ordinance may be cited as: Grandview, Indiana, Zoning Ordinance. (Ord. 1983-unnumbered, S1.040, Sept. 12, 1983)

10.06.010.050 Buildings and uses affected by zoning. No building or part thereof shall be erected, moved, altered or used and no use of land shall be changed unless in conformity with the regulations of this ordinance.

However, nothing in this ordinance shall require any change in the plans, construction or intended use of a building, the construction of which has been diligently prosecuted at least two (2) months preceding the date of this ordinance, and such entire building shall be completed within two (2) years from the date this ordinance became effective. Nothing herein shall prevent the reconstruction of a wall or other structural part of a building declared unsafe by the state fire marshal or the administrative building council of the State of Indiana. (Ord. 1983-unnumbered, S1.050, Sept. 12, 1983)

10.06.010.060 Definitions. In this ordinance words used in the present tense include the future, the singular includes the plural and the plural the singular, and the word "lot" includes the word "plot". The word "used" includes "designed" or "intended to be used". The word "shall" is mandatory and not optional. Unless otherwise specified, all distances shall be measured horizontally in any direction. The following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

- (1) Accessory building and use means a subordinate building located on the same lot with the main building, or a subordinate use of land, either of which is customarily incident to the main building or to the principal use of the land. Where a substantial part of the wall of an accessory building is a part of the wall of the main building or where an accessory building is attached to the main building in a substantial manner as by roof, such accessory building shall be counted as part of the main building.
- (2) Advertising device means any billboard, sign, notice, poster, display, emblem, or any structure for supporting said device.
- (3) Alteration means any change, addition, or modification in construction, or any change in the structural members of a building, such as loadbearing walls, columns, beams, or girders.
- (4) Block frontage means all the property fronting on one side of a street between intersecting or intercepting streets or between a street and right-of-way, end of dead-end street or city boundary measured along the street line.
- (5) Board means the Board of Zoning Appeals of the Town of Grandview.

- (6) Building means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattel. When any portion thereof is completely separated from every other portion thereof by a division wall without openings then each such portion shall be deemed to be a separate building. At no time shall this definition be construed to include mobile homes.
- (7) Building, detached means a building having no party wall in common with another building.
- (8) Building, nonconforming means a legally existing building which fails to comply with the regulations set forth in this ordinance applicable to the district in which this building is located.
- (9) Building, height of means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridges for gable, hip and gambrel roofs.
- (10) Building, principal means a building in which is conducted the main or principal use of the lot on which said building is situated.
- (11) Building, setback line means the line, established by this ordinance, beyond which a building shall not extend unless varied according to procedures in this ordinance. Also called a "building line." This may be applicable to the front, side and/or rear yard.
- (12) Campground means any area or tract of land used for occupancy by tents, movable or temporary sleeping quarters, or travel trailers. A camp ground shall constitute two or more such units.
- (13) Cemetery means land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
- (14) Certificate of occupancy means a certificate issued by the zoning administrator stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this ordinance.
- (15) Clerk-Treasurer means the Clerk-Treasurer of the Town of Grandview, Indiana.
- (16) Commission means the Plan Commission of the Town of Grandview, Indiana.
- (17) County means Spencer County, Indiana.

- (18) Dump means any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof, offal, or dead animals.
- (19) Development means any manmade change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- (20) Dwelling means a structure or building or portion thereof, used exclusively for residential occupancy including one-family and multiple dwellings, but not including hotels, lodging or boarding houses or tourist homes.
- (21) Dwelling, one-family means a structure used for occupancy by one family.
- (22) Dwelling, two-family means a building used for occupancy by two families living independently of each other.
- (23) Dwelling, multi-family means a building or portion thereof used for occupancy by three or more families living independently of each other.
- (24) Dwelling, row means a building having a party wall on each side in common with an adjoining building unless it is situated as the outermost building; in the latter case it will have a party wall on one side only.
- (25) Dwelling unit means a dwelling or a portion of a two-family, multi-family, or row dwelling or of an apartment hotel used by one family for cooking, living and sleeping purposes.
- (26) Educational institution means pre-primary, primary or grade, public, parochial or private school, high school, preparatory school or academy, public or under the sponsorship of a religious or charitable organization; private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools, college or university, public or under the sponsorship of a religious or charitable organization, or a private institution not conducted as a commercial enterprise for the profit of individual owners or stockholders. This definition shall not be deemed to include trade or business schools.

- (27) Essential uses means transmission lines, distribution systems and all appurtenances constructed and maintained for or by a utility company, either private or governmental.
- (28) Family means one or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants.
- (29) Farm means an area used for agricultural operations including truck gardening, forestry, the operation of a tree or plant nursery, or production of livestock and poultry, except as defined under confinement feeding by the Indiana State Board of Health or the processing of farm products produced on the farm by the resident owner or tenant. This does not include commercial or custom slaughtering, farm equipment sales and service or commercial warehouse and storage or sales of grain seed and dry fertilizer and grain drying facilities for commercial use.
- (30) Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source. For further information pertaining to flood see Ordinance For Flood Hazard Areas, No. 4-4-94-A. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (31) Flood Hazard Area: See Special Flood Hazard Area. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (32) Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The Floodplain includes both the floodway and the floodway fringe districts. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (33) Flood Proofing means a combination of structural provisions and changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, utilities, structures, and the contents of buildings. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (34) Floor Protection Grade or FPG means the elevation of the regulatory flood plus two feet at any given location in the SFHA. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (35) Floodway means the channel of a river or stream, and those portions of the flood plains adjoining the channels, which are required to efficiently carry the discharge of flood water or flood flow of any river or stream including but not limited to flood flows associated

with the regulatory flood. This area is designated as a “commission floodway” by the Indiana Natural Resources Commission.

- (36) Floodway fringe means that portion of the flood plain outside the floodway where development may be allowed under certain restrictions.
- (37) Floor area, gross means the sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior walls. It includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement or cellar when said basement or cellar space is used for storage or other such incidental uses. The gross floor area is generally applied in residential use.
- (38) Floor area, net means the floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, fitting rooms, etc., in a nonresidential building. The net area is used in calculating parking requirements.
- (39) Garage, private means a detached accessory building or portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed three vehicles, or not more than two vehicles per family housed in the building to which such garage is accessory, whichever is the greater; not more than one-third the total number of vehicles stored in such garage shall be commercial vehicles. Storage space for not more than three vehicles may be rented for vehicles of non-occupants of the building to which the garage is accessory.
- (40) Garage, parking means any building, except those herein defined as a private garage, used
- (41) Home occupation means an occupation conducted in a dwelling unit, provided that:
 - A. No more than one person other than members of the family residing on the premises shall be engaged in such occupation;
 - B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of floor area of the dwelling units shall be used in the conduct of the home occupation.

- C. There shall be no chance in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding four (4) square feet in area and nonilluminated.
 - D. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this ordinance, and shall not be located in a required front yard.
 - E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of the electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- (42) Hospital or clinic means an institution operated under the direct supervision of a person licensed to perform such practice by the State of Indiana.
 - (43) Hospital, animal means a lot, building, structure, enclosure or premises whereon or wherein three (3) or more dogs, cats, and other domestic animals are kept or maintained and which is operated by, or the treatment therein in under direct supervision of, a veterinarian licensed to practice by the State of Indiana.
 - (44) Hotel means a building or portion thereof used for the more or less temporary occupancy of individuals who are lodged with or without meals and in which provision for cooking is made primarily in a central kitchen and not in the individual rooms or suites.
 - (45) Improvement location permit means a permit issued by the zoning administrator of the Town of Grandview, or its duly authorized representative, stating that the proposed erection, construction, enlargement or moving of a building or structure referred to therein complies with the provisions of this ordinance.
 - (46) Junk yard, including automobile wrecking and storage means any lot, building, structure, enclosure, premises, or parts thereof used for the storage, keeping or abandonment of any worn out, cast off, discarded or abandoned article, material, vehicle, automobile or machinery or parts thereof.

- (47) Jurisdiction means the incorporated area of the Town of Grandview.
- (48) Kennel means a lot, building, structure, enclosure, or premises whereon or wherein dogs or cats are maintained, boarded, bred, kept, or cared for, in return for remuneration, or are kept for the purpose of sale, or are groomed, trained, or handled for others.
- (49) Lodging house (rooming house) means a building with more than two (2), but not more than (10), guest rooms where lodging of a permanent nature, with or without meals, is provided for compensation.
- (50) Lot means a parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded plat, fronting on a legally dedicated public thoroughfare. In determining lot area, no part thereof within the limits of the proposed street rights-of-way shall be included.
- (51) Lot, corner means a lot abutting two (2) or more streets at their intersection.
- (52) Lot front means that part of a lot adjacent to and parallel with the street. The front of a corner lot shall be determined, at the time of application for the improvement location permit, by either the owner, building developer or their agent and the zoning administrator. Once the front is determined, the structure shall then be erected in conformity with the zoning ordinances.
- (53) Lot lines means lines bounding a lot, as hereinafter described:
- A. Lot line, front means the line running along the front of the lot and separating it from the street. In this ordinance the front lot line is called the "front street line". In a "through lot" both lines abutting the streets are deemed "front street lines".
 - B. Lot line, rear means the lot line generally opposite and parallel to the front street line, except in a "through lot". If a rear lot line is less than ten (10) feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line at least ten (10) feet long, lying wholly within the lot, parallel to the front street line or, if the front street line is curved, parallel to the chord of the arc of said front street line.
 - C. Lot line means any lot line other than a front street line or a rear lot line. A side line separating lot from a street is a "side street line".

- (54) Lot, through means a lot having frontage on two (2) parallel or approximately parallel streets.
- (55) Lot, width means the distance parallel to the front of a building erected or to be erected, measured between side lot lines at the building line.
- (56) Manufactured Home means a dwelling fabricated in an off-site manufacturing facility for installation or assembly at the building site. Said home must conform to the Federal Manufactured Housing Construction and Safety Standards and is likewise regulated by the same standards of other dwellings. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (57) Master Plan means the Comprehensive Plan, or any of its parts, serving as a guide for the development of the Town of Grandview, Indiana, prepared by or for the Commission and adopted by the Town Council, in accordance with the authority conferred by IC 36-7-4-500 amendatory thereto, as is now or may hereafter be in effect.
- (58) Mobile Home means a transportable, factory-built dwelling built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. (As amended by ordinance 1997-7-3, July 28, 1997)
- (59) Motel means a permanent building or group of buildings containing rooms without cooking facilities, used, rented or hired out for the more or less temporary occupancy of overnight guests.
- (60) Motor vehicle means any automobiles, trucks, tractors, trailers, semi-trailers, buses and farm implements, whether self-propelled or designed to be pulled, pushed or carried by another motor vehicle.
- (61) Natural resources means the Indiana Natural Resources Commission.
- (62) Net site area means the entire land area within the boundaries of a site, including the area of any existing streets, alleys, or rights-of-way which are included in the legal description of the site.
- (63) Nonconforming use means an existing use of land or building which fails to comply with the requirements set forth in this ordinance applicable to the zone in which such use is located at the time of the adoption of this ordinance or any amendments thereto.
- (64) Parking area, public means an open area, other than street, used for the temporary parking of more than four automobiles and available for public use whether free, for compensation or as an accommodation for clients or customers.

- (65) Parking space (off-street) means a space on private land accessible from a street or alley, used for the purpose of temporarily parking a motor vehicle.
- (66) Permanent foundation means any structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.
- (67) Persons means a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.
- (68) Regulatory Flood means the flood having a one percent probability of being equaled or exceeded in any given year. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (69) Regulatory Flood Profile means a longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.
- (70) Residential home park means a parcel of land under single ownership on which two or more dwellings are located. (As added by Ordinance 1997-7-3, July 28, 1997)
- (71) Sanitary landfill means the disposal of garbage by the trench and cover method of fill and borrow method. In the first case, an excavation will be made and the garbage placed in the excavation and covered with the dirt which was removed. In the second case, the fill may be made in a low area and dirt borrowed from higher ground will be spread over the top of the garbage.
- (72) Sign means any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured figures or colored material on any building, structure, or surface. Signs placed or erected by public agencies for the purpose of showing street names or traffic directions or regulations or for other governmental purposes or signs which are part of the architectural design of the building shall not be included herein.
- (73) Special Flood Hazard Area or SFHA means those lands within the jurisdiction of the Town that are subject to inundation by the regulatory flood. (As added by Ordinance 1997-7-3, July 28, 1997)

- (74) Story means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless more than one-half (1/2) of the basement height is above grade level at the front of the building.
- (75) Street means a right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name. The arterial thoroughfares and primary and secondary streets are designated on the thoroughfare map of the master plan for Grandview, Indiana.
- (76) Structure means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, mobile homes, and other similar items.
- (77) Subdivision means the division of a lot, tract, or parcel of land into two or more lots or other divisions of land for sale, development, or lease. (As added by Ordinance 1997-7-3, July 28, 1997)
- (78) Tourist home means a building in which more than one (1) but not more than five (5) guest rooms are used to provide or offer overnight accommodations for transient guests for compensation.
- (79) Town means the Town of Grandview, Indiana.
- (80) Town Council means the legislative body of the Town of Grandview, Indiana. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (81) Trade or business school means a secretarial school or college; business school or college when not public and not under the sponsorship of a religious or charitable organization; school conducted as commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing or for teaching industrial skills in which machinery is employed as a means of instruction. This definition shall not be deemed to include education institutions as defined heretofore.
- (82) Use means the employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

- (83) Use, open means the use of a lot without a building or dwelling, or including a building or dwelling, incidental to the open use with ground floor area equal to five (5) percent or less of the area of the lot.
- (84) Variance means a modification of the specific requirements, other than use, of this ordinance granted by the board in accordance with the terms of this ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zone.
- (85) Yard means a space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground upward, except as otherwise provided in this ordinance.
- (86) Yard, front means a yard extending across the full width of the lot, the depth of which shall be at the least distance between the front lot line and the front of the main building.
- (87) Yard, rear means a yard extending the full width of the lot between the rearmost main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such main building.
- (88) Yard, side means a yard between the main building and each side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of each required side yard shall be measured horizontally and perpendicularly from the nearest point of the side lot line toward the nearest part of the main building.
- (89) Zoning administrator means the officer designated and authorized by the commission or town board to enforce the zoning requirements.
- (90) Zoning lot means a single tract of land located within a single block which (at the time of the filing for an improvement location permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. Therefore, a "zoning lot" may or may not coincide with a lot of record. The zoning lot shall have adequate frontage on an improved dedicated roadway of adequate width. (Ord. 1997-7-3, July 28, 1997) (Ord. 1983, S1.060, Sept. 12, 1983)

10.06.020 ENFORCEMENT AND ADMINISTRATION

- 10.06.020.010 Improvement location permit**
- 10.06.020.011 Contents of application for permit**
- 10.06.020.012 Approval of improvement location permit**
- 10.06.020.013 Submission to state or local highway department**
- 10.06.020.014 Expiration of the improvement location permit**
- 10.06.020.020 Certificate of occupancy**
- 10.06.020.021 Application for certificate of occupancy**
- 10.06.020.030 Record of improvement location permits and certificates of occupancy**
- 10.06.020.040 Permits issued in conflict with ordinance**
- 10.06.020.050 Creation of the office of zoning administrator**
- 10.06.020.051 Duties of the Zoning Administrator**
- 10.06.020.060 Establishment of the Plan Commission**
- 10.06.020.070.1 Establishment of the Board of Zoning Appeals**
- 10.06.020.070.2 Purpose of the Board of Zoning Appeals**
- 10.06.020.070.3 Membership of the Board of Zoning Appeals**
- 10.06.020.070.4 Term of office of the Board of Zoning Appeals**
- 10.06.020.070.5 Vacancies of the Board of Zoning Appeals**
- 10.06.020.070.6 Official action of the Board of Zoning Appeals**
- 10.06.020.070.7 Conflict of interest of the Board of Zoning Appeals**
- 10.06.020.070.8 Organization of the Board of Zoning Appeals**
- 10.06.020.072 Powers and duties of the Board of Zoning Appeals**
- 10.06.020.073 Duties of the Zoning Administrator, Board of Zoning Appeals, Town Council, and the courts on matters of appeals**
- 10.06.020.080 Procedures and requirements for appeals and variances**
- 10.06.020.081 Appeals**
- 10.06.020.082 Review by certiorari**
- 10.06.020.090 Variances**
- 10.06.020.091 Application and standards for variances**
- 10.06.020.092 Supplementary conditions and safeguards**
- 10.06.020.093 Public hearing by the Board of Zoning Appeals**
- 10.06.020.094 Notice of public hearing in newspaper**
- 10.06.020.095 Notice to parties of interest**
- 10.06.020.096 Action by Board of Zoning Appeals**
- 10.06.020.100 Procedure and requirements for approval of special exceptions**
- 10.06.020.101 General provisions**
- 10.06.020.102 Contents of application for approval of special exceptions**
- 10.06.020.103 Supplementary conditions and safeguards**
- 10.06.020.104 Notice of public hearing**
- 10.06.020.105 Action by Board of Zoning Appeals**

10.06.020.106	Expiration of special exception permit
10.06.020.110	Penalties for violation
10.06.020.120	Schedule of fees, charges and expenses

10.06.020.010 Improvement location permit. No building or structure, except buildings incidental to agricultural operations, shall be constructed, reconstructed, enlarged or moved nor shall any other development commence or change in land use occur until an improvement location permit shall have been applied for in writing and issued by the zoning administrator. The applicable fee listed in Section 10.06.020.120 shall be paid when making application for an improvement location permit. Said permit shall be posted in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement or moving. Before a permit is issued for the erection, moving, alteration, enlargement or occupancy of any building or structure or use of premises, the plans and intended use shall indicate conformity in all respects to the provisions of this ordinance.

No mobile home shall be placed in any zone, either on an individual private building lot, or upon a lot or space in an existing or new mobile home park, until an improvement location permit shall have been applied for in writing and issued by the zoning administrator.

No improvement location permit for erection, reconstruction, enlargement or moving of any building, or change of use of a building or land, shall be issued before application has been made for a certificate of occupancy. (Ord. 1983-unnumbered, S2.010, Sept. 12, 1983)

10.06.020.011 Contents of application for permit. The application for an improvement location permit shall be made in triplicate and signed by the owner or applicant attesting to the accuracy of all information supplied by the application. Each application shall clearly state that the permit shall expire and be revoked if work has not begun within one year or been substantially completed within two and a half (2 1/2) years. The following information is the minimum required:

- (1) Name, address, and phone number(s) of applicant.
- (2) Legal description of property.
- (3) Existing and/or proposed use.
- (4) Zoning District.
- (5) A site plan, drawn to scale, showing the lot and the building site and the location of existing buildings on the lot, accurate dimension of the lot, yards and building or buildings, together with locations, size and use of any land and all buildings not only, on the lot but within fifty (50) feet from the boundaries thereof, unless separated

therefrom by a street, together with such other information as may be necessary to the enforcement of this ordinance.

- (6) Building heights.
- (7) Number of off-street parking spaces and/or loading berths, if applicable.
- (8) Number of dwelling units, if applicable.
- (9) Any other matters which may be necessary to determine conformance with, and provide for the enforcement of this ordinance. (Ord. 1983-unnumbered, S2.011, Sept. 12, 1983)

10.06.020.012 Approval of improvement location permit. Within thirty (30) days after the receipt of an application, the zoning administrator shall either approve or disapprove the application. One set of the plans shall be returned to applicant by the zoning administrator and be marked either “approved” or “disapproved”, and the zoning administrator’s signature on the copy should attest. One set of plans, similarly marked, shall be retained by the zoning administrator. If the application is approved, the zoning administrator shall issue a placard to the applicant. It is to be posted in a conspicuous place on the property in question, and will attest to the fact that the plans for construction or alteration are in compliance with the provisions of the state building rules and regulations. If disapproved, the zoning administrator shall indicate the reasons on a typewritten letter. (Ord. 1983-unnumbered, S2.012, Sept. 12, 1983)

10.06.020.013 Submission to state or local highway department. Before any improvement location permit is issued which affects any land within three hundred (300) feet of the centerline of a proposed highway or a highway for which changes or improvements are proposed, or within five hundred (500) feet of the intersection of the aforementioned highway and any other public road or street, the Indiana State Highway Commission and/or any local or county highway departments must be notified and comments or suggestions received back from same. (Ord. 1983-unnumbered, S2.013, Sept. 12, 1983)

10.06.020.014 Expiration of the improvement location permit. If work has not begun within sixty (60) days from the date of issuance of the improvement location permit application, that permit shall expire and be revoked by the zoning administrator. If work has not been substantially completed within one year from the date of issuance of the permit application, that permit shall expire and be revoked by the Zoning Administrator. In each case, written notice shall be given to the applicants with the stipulation that work may not begin or continue (whichever case applies) until a new permit has been obtained. (Ord. 98-unnumbered, S2.014, June 1, 1998) (Ord. 1983-unnumbered, S2.014, Sept. 12, 1983)

10.06.020.020 Certificate of occupancy. A certificate of occupancy to be issued by the Zoning Administrator shall be required for any of the following, except when said buildings or structure is incidental to agricultural operations.

- (1) Occupancy or use of a building or structure hereafter erected or enlarged.
- (2) Change in use of an existing building or structure.
- (3) Occupancy or use of vacant land except for agricultural operations.
- (4) Change in the use of land to a use of a different classification except for agricultural operations.
- (5) Any change in the use of a nonconforming use.

No such occupancy, use or change of use, shall take place until a certificate of occupancy shall have been issued by the Zoning Administrator. This certificate is an official statement of finding that the occupancy and use of land, building, or structure complies with all provisions of this ordinance. (Ord. 1983-unnumbered, S2.020, Sept. 12, 1983)

10.06.020.021 Application for certificate of occupancy. Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or of a building, or for a change in a nonconforming use, as herein provided, shall be made to the Zoning Administrator. If the proposed use is in conformity with the provisions of this ordinance, the certificate of occupancy therefore shall be issued within four (4) days after the application for the same has been made.

No fee shall be charged for an original certificate applied for, coincident with the application for an improvement location permit. For all other certificates or for copies of any original certificate there shall be a charge of one dollar (\$1.00) each. (Ord. 1983-unnumbered, S2.021, Sept. 12, 1983)

10.06.020.030 Record of improvement location permits and certificates of occupancy. The Zoning Administrator shall maintain all complete record of all improvement location permits and certificates of occupancy. Copies shall be furnished or presented for review to any person upon request. (Ord. 1983-unnumbered, S2.030, Sept. 12, 1983)

10.06.020.040 Permits issued in conflict with ordinance. Any permit issued in conflict with provisions of this ordinance shall be null and void. (Ord. 1983-unnumbered, S2.040, Sept. 12, 1983)

10.06.020.050 Creation of the office of Zoning Administrator. A zoning administrator designated by the president of the Town Council shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the town board president or plan commission may direct. (As

amended by Ordinance 1997-7-3, July 28, 1997) (Ord. 1983-unnumbered, S2.050, Sept. 12, 1983)

10.06.020.051 Duties of the Zoning Administrator. For the purpose of this ordinance, the zoning administrator shall have the following duties:

- (1) With the advice of the plan commission attorney:
 - A. Upon finding that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation.
 - B. Order discontinuance of illegal uses of land, buildings, or structures.
 - C. Order removal of illegal buildings or structures or illegal additions or structural alterations.
 - D. Order discontinuance of any illegal work being done.
- (2) Take any other action authorized by this ordinance to ensure compliance with or to prevent violation(s) of this ordinance. This shall include the issuance of and action on improvement location permits and certificates of occupancy and such other similar administrative duties as are permissible under the law. (Ord. 1983-unnumbered, S2.051, Sept. 12, 1983)

10.06.020.060 Establishment of the Advisory Plan Commission. As provided by Ordinance No. 1997-7-1 passed on the 7th day of July 1997 by the Town Council of the Town of Grandview, there was established the Town of Grandview Advisory Plan Commission. (As amended by Ordinance 1997-7-3, July 28, 1997) (Ord. 1997-7-1, S1, July 7, 1997) (Ord. 1983-unnumbered, S2.060, Sept. 12, 1983) (Ord. 1982-10-4, Oct. 4, 1982)

10.06.020.070.1 Establishment of the Board of Zoning Appeals. There is hereby established the Town of Grandview Board of Zoning Appeals under the authority of IC 36-7-4-900 et seq., and herein shall be known as the "Board." (As added by Ordinance 1997-7-2, July 28, 1997) (Ord. 1983-unnumbered, S2.070, Sept. 12, 1983)

10.06.020.070.2 Purpose of the Board of Zoning Appeals. The fundamental purpose of the Board is to coordinate efforts to promote and improve the health, safety, and welfare of the citizens and to plan for the future development of the community. (As added by Ordinance 1997-7-2, July 28, 1997)

10.06.020.070.3 Membership of the Board of Zoning Appeals.

- (1) Town Council Appointees.
The Town Council shall appoint one citizen member, who must not be a member of the Plan Commission.
- (2) Town Council President Appointees.
The Town Council President shall appoint three citizen members, of whom one must be a member of the Plan Commission and two must not be members of the Plan Commission.
- (3) Plan Commission Appointees.
The Plan Commission shall appoint one citizen member of the Plan Commission to the Board other than the member appointed to the Board by the Town Council President.
- (4) All Citizen Member Appointees.
A citizen member must be a resident of the jurisdictional area of the Board and may not hold other elective or appointive office in municipal, county, or state government, except as a member of the Plan Commission as stated. (As added by Ordinance 1997-7-2, July 28, 1997)

10.06.020.070.4 Term of office of the Board of Zoning Appeals.

- (1) Initial Appointments.
Initial appointments to the Board shall be made for one member for a term of one year, one member for a term of two years, one member for a term of three years, and two members each for a term of four years. When an initial term of office expires, each new appointment is for a term of four years.
- (2) Term Expiration.
Each member's term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment. A member serves until the member's successor is appointed and qualified. A member is eligible for reappointment. (As added by Ordinance 1997-7-2, July 28, 1997)

10.06.020.070.5 Vacancies of the Board of Zoning Appeals. If a vacancy occurs among the Board members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. (As added by Ordinance 1997-7-2, July 28, 1997)

10.06.020.070.6 Official Action of the Board of Zoning Appeals. Action of the Board is not official, unless it is authorized, at a regular or special meeting, by a majority of the entire membership of the Board. (As added by Ordinance 1997-7-2, July 28, 1997)

10.06.020.070.7 Conflict of Interest of the Board of Zoning Appeals. A member of the Board may not participate as a member in a hearing or decision of the Board concerning a zoning matter in which the member has a direct or indirect financial interest. The Board shall enter in its records the fact its member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member. (As added by Ordinance 1997-7-2, July 28, 1997)

10.06.020.070.8 Organization of the Board of Zoning Appeals.

- (1) Chair and Vice Chair.
At its first regular meeting in each year, the Board shall elect from its members a chair and a vice chair. The vice chair may act as president of the Board during the absence or disability of the president.
- (2) Secretary.
The Board shall appoint and may fix the duties of a secretary, who is not required to be a member of the Board
- (3) Meetings and Minutes.
The Board shall keep minutes of its meetings. The minutes of Board meetings and all records shall be filed in the office of the Board and are public records. The Board shall in all cases heard by it make written finding of fact. (As added by Ordinance 1997-7-2, July 28, 1997)

10.06.020.072 Powers and Duties of the Board of Zoning Appeals. In exercising its duties, the Board may, as long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the concurring vote of a majority of the entire Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in the application of this ordinance. As provided in IC 36-7-4 Section 918 the Board has the following specific responsibilities:

- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the zoning administrator.
- (2) To authorize such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

- (3) To grant special exceptions as specified in the official schedule of uses and under the conditions specified in Title 6 and such additional safeguards as will uphold the intent of this ordinance.

In the exercise of these powers and the responsibilities assigned to at by this ordinance, it may impose such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance. The board shall not, however, permit any use in conflict with any zone as prescribed in this ordinance. (Ord. 1983-unnumbered, S2.072, Sept. 12, 1983)

10.06.020.073 Duties of the Zoning Administrator, Board of Zoning Appeals, Town Council and courts on matters of appeals. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the zoning administrator, and that such questions shall be presented to the Board only on appeal for the decision of the zoning administrator, and that recourse from the decisions of the Board shall be appealed to the courts as provided by law. It is further the intent of this ordinance that the duties of the Town Board, in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this ordinance. Under this ordinance the Town Board shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this ordinance as provided by law, and of establishing a schedule of fees and charges. Nothing in this ordinance shall be interpreted to prevent any official of the town from appealing a decision of the Board to the courts as provided in Indiana law. Any such appeal shall be made within thirty (30) days of the Board's written decision. (As amended by ordinance 1997-7-3, July 28, 1997) (Ord. 1983-unnumbered, S2.073, Sept. 12, 1983)

10.06.020.080 Procedures and requirements for appeals and variances. Appeals and variances shall conform to the procedures and requirements of the following sections of this ordinance. As specified in Section 10.06.020.072, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances. (Ord. 1983-unnumbered, S2.080, Sept. 12, 1983)

10.06.020.081 Appeals. Appeals to the Board of Zoning Appeals concerning interpretation or administration of this ordinance may be taken by any persons aggrieved or by any officer or bureau of the legislative body of the town affected by any decision of the Zoning Administrator. Such appeal shall be taken within such time as established by the Board by general rule, after the decision, with the zoning administrator and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The zoning administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. (Ord. 1983-unnumbered, S2.081, Sept. 12, 1983)

10.06.020.082 Review by certiorari. Every decision of the Board of Zoning Appeals shall be subject to review by certiorari.

Any person aggrieved by a decision of the Board of Zoning Appeals may present to the Circuit or Superior Court of the county in which the premises affected are located, a petition duly verified; setting forth that such decision is illegal in whole or in part, and specifying the grounds of illegality. The petition shall be presented to the court within thirty (30) days the entry of the decision or order of the Board of Zoning Appeals complained of. (Ord. 1983-unnumbered, S2.082, Sept. 12, 1983)

10.06.020.090 Variances. The board may grant a variance with respect to specific property or an intended use if, after a hearing under Section 2.080, it finds that:

- (1) The grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) The use or value of the area adjacent to the property included in the variance will not be adversely affected;
- (3) The need for the variance arises from some condition peculiar to the property involved and does not exist in similar property in the same zone; and
- (4) The strict application of terms of the ordinance will constitute an unusual and unnecessary hardship as applied to the property for which a variance is sought.

The board shall not grant a variance from a use classification as permitted in any zone. (Ord. 1983-unnumbered, S2.090, Sept. 12, 1983)

10.06.020.091 Application and standards for variances. A variance from the terms of this ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the zoning administrator and the Board of Zoning Appeals containing:

- (1) Name, address, and phone number of applicants;
- (2) Legal description of the property;
- (3) Description of nature of variance requested;
- (4) A narrative statement demonstrating that the requested variance conforms to each of the following standards:
 - A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

- B. That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- C. That special conditions and circumstances do not result from the action of the applicant;
- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings.

A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that all of the standards and conditions imposed by subsection (4) of this section have been met by the applicant. (Ord. 1983-unnumbered, S2.091, Sept. 12, 1983)

10.06.020.092 Supplementary conditions and safeguards. Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this ordinance and punishable under Section 10.06.020.110 of this ordinance. (Ord. 1983-unnumbered, S2.092, Sept. 12, 1983)

10.06.020.093 Public hearing by the Board of Zoning Appeals. The Board of Zoning Appeals shall hold a public hearing within a reasonable length of time after the receipt of an application for an appeal or variance from the applicant. However, the public hearing shall not be held sooner than fifteen (15) days after its receipt. (Ord. 1983-unnumbered, S2.093, Sept. 12, 1983)

10.06.020.094 Notice of public hearing in newspaper. Before holding the public hearing required in Section 10.06.020.093 or Section 10.06.020.104, notice of such hearing shall be given in one or more newspapers of general circulation of the town at least fifteen (15) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance.

The party taking the appeal or applying for a special exception or variance shall be required to assume the cost of public notice and due notice to interested parties. (Ord. 1983-unnumbered, S2.094, Sept. 12, 1983)

10.06.020.095 Notice to parties of interest. Before holding the public hearing required in Section 10.06.020.093, written notice of such hearing shall be mailed by the chairman of the Board of Zoning Appeals, by first class mail, at least

fifteen (15) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers as specified in Section 10.06.020.094. The petitioner shall be required to assume such costs. (Ord. 1983-unnumbered, S2.095, Sept. 12, 1983)

10.06.020.096 Action by the Board of Zoning Appeals. Within a reasonable time after the public hearing required in Section 2.086, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 2.085, or disapprove the request for appeal or variance. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. Appeals from Board decisions shall be made in the manner specified in Section 10.06.020.081. (Ord. unnumbered, S2.096, Sept. 12, 1983)

10.06.020.100 Procedure and requirements for approval of special exceptions. Special exceptions shall conform to the procedures and requirements of Sections 10.06.020.101 thru 10.06.020.106 of this ordinance. (Ord. unnumbered, S2.100, Sept. 12, 1983)

10.06.020.101 General provisions. It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulations, and public facilities that each specific use must be considered individually. These specific uses as they are conditionally permitted under the provisions of 10.06.060, shall follow the procedures and requirements set forth in Sections 10.06.020.102 thru 10.06.020.106, inclusive. Special exceptions, while requiring special consideration by the Board of Zoning Appeals, shall be deemed permitted uses in the district in which they are provided. (Ord. unnumbered, S2.101, Sept. 12, 1983)

10.06.020.102 Contents of application for a special exception permit. An application for a special exception permit shall be filed with the Zoning Administrator and the Board of Zoning Appeals by at least one owner or lessee of property for which such special exception is proposed. At a minimum, the application shall contain the following information:

- (1) Name, address, and phone number of applicant;
- (2) Legal description of property;
- (3) Description of existing use;
- (4) Zoning district;
- (5) Description of proposed special exception;
- (6) A plan of the proposed site for the special exception showing the location of all buildings, parking and loading area, traffic access and

traffic circulation, open space, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Board may require to determine if the proposed special exception meets the intent and requirements of this ordinance and is appropriate for the location at which it is proposed.

- (7) A narrative statement evaluating the effects of such elements as noise, glare, odor, fumes, and vibration on adjoining property, and a discussion of the general compatibility with adjacent and other properties in the district. (Ord. 1983-unnumbered, S2.102, Sept. 12, 1983)

10.06.020.103 Supplementary conditions and safeguards In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms upon which the special exception is granted, shall be deemed a violation of this ordinance and punishable under Section 10.06.020.110 of this ordinance. (Ord. 1983-unnumbered, S2.103, Sept. 12, 1983)

10.06.020.104 Notice of public hearing. Upon receipt of the application for a special exception permit, the Board shall hold a public hearing, publish notice in a newspaper, and give written notice to all parties in interest according to procedures specified in Sections 10.06.020.093 thru 10.06.020.095. (Ord. 1983-unnumbered, S2.104, Sept. 12, 1983)

10.06.020.105 Action by the Board of Appeals. Within thirty (30) days after the public hearing the Board shall either approve, approve with supplementary conditions as specified in Section 10.06.020.103, or disapprove the application as presented. If the application is approved or approved with modifications the Board shall direct the zoning administrator to issue a special exception permit listing the specific conditions specified by the Board for approval. If the application is disapproved by the Board the applicant may seek relief through the Circuit Court. Appeals from Board decisions shall be made in the manner specified in Section 10.06.020.082. (Ord. unnumbered, S2.105, Sept. 12, 1983)

10.06.020.106 Expiration of special exception permit. A special exception permit shall be deemed to authorize only one particular use and said permit shall automatically expire if, for any reason, the use has not commenced within one year. (Ord. unnumbered, S2.106, Sept. 12, 1983)

10.06.020.110 Penalties for Violation. The erection, construction, enlargement, conversion, moving, or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained, contrary to the provisions of this ordinance is hereby declared to be a violation of this ordinance and unlawful.

Any structure erected, raised, or converted, or land or premises used in violation of this ordinance shall be considered a common nuisance. Any person or corporation, whether as principal, agent, employee or otherwise, who violates any of the provisions of this ordinance shall be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00), for each offense, such fine to insure to the Town. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies.

Whenever a violation of this ordinance occurs, any person may request the Plan Commission to take action thereon by filing a complaint in writing with the Zoning Administrator, who shall properly record such complaint and investigate and report thereon to the complainant, the alleged violator, and the Plan Commission. The Zoning Administrator, upon determination that a violation exists, may take any immediate enforcement action required, as permitted by I.C. 36-7-4-1000 et. seq. Additionally, the Zoning Administrator shall report to the Plan Commission any immediate enforcement action taken or recommended by the Zoning Administrator to be taken.

The Plan Commission shall recover its attorney fees upon a favorable Court decision assessing judgement in its favor for an Ordinance violation. (Ord. 98-unnumbered, S2.110, June 1, 1998) (Ord. 1983-unnumbered, S2.110, Sept. 12, 1983)

10.06.020.120 Schedule of fees, charges, and expenses. The Town Council shall, by ordinance or resolution, establish a schedule of fees, charges, and expenses and a collection procedure for improvement location permits, amendments, appeals, variances, conditional use permits, plan approvals, and other matters pertaining to the administration and enforcement of this ordinance requiring investigations, legal, advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the zoning administrator and may be altered or amended only by the Town Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. (As amended by Ordinance 1997-7-3, July 28, 1997) (Ord. 1983-unnumbered, S2.120, Sept. 12, 1983)

Schedule of Fees, Charges and Expenses

- (1) Building Permit Fees. A new building permit fee or a (current) building improvement fee of \$250.00 will be charged for each separate single residential dwelling or single residence manufactured home (often referred to as double-wides, mobile homes, modular homes, and trailers.) In addition to permission to build/or to improve, each permit will include up to 6 inspections by the Town's agent for the foundation, the framing or the block-and tie-assembly, the electrical system to include amps coming in, the plumbing, the gas or alternative heat source, and the final overall inspection.

Multifamily dwellings will be subject to the same permit requirements plus unit inspection for plumbing, electrical, and heat or gas inspection at an additional \$25.00 per unit. (Ord. 2001-11-07, S4, Nov. 7, 2001)

- (2) Porches, Garages, and Decks. Porches, garages, decks, etc. constructed during home construction will be included at no additional charge re: the building permit.

If any of these are added after the home completion, additional permit and inspection fees will be charged as an improvement to the location. (Ord. 2001-11-07, S5, Nov. 7, 2001)

- (3) Inspection Failure. If any item inspected does not pass, there will be an additional inspection fee charged for reinspection of \$25.00 per item reinspected.

Any inspection caused or requested by the Town of Grandview shall be paid to the building inspector at the regular \$25.00 inspection rate. (Example: condemnation)

All elevation certificates will be the responsibility of the applicant. This will include beginning and final inspection. Substandard construction found during any inspection shall be corrected and reinspected before proceeding or will be subject to a "stop work" order. (Ord. 2001-11-07, S6, Nov. 7, 2001)

Certificate of occupancy

Application for special exception or variance	\$ 100
Subdivision hearing	\$ 125
Petition for amendment to zoning ordinance	\$ 50
Rezoning (when initiated by citizen)	\$ 50
Rezoning to IN Industrial Zone	\$ 200

This ordinance hereby establishes the aforementioned fees, charges, and expenses as part of this document. (Ord. 2001-11-07, S4, 5, 6, Nov. 7, 2001) (Ord. 1983-
unnumbered, Schedule of Fees, Charges, and Expenses, Sept. 12, 1983)

10.06.030 ZONES ESTABLISHED

10.06.030.010 Establishment of zones

10.06.030.020 Interpretation of zone boundaries

10.06.030.010 Establishment of zones. For the purposes of this ordinance all land falling within the jurisdiction of this ordinance is hereby divided into six (6) zones designated as follows:

- FP Flood Plain Zone
- AG Agricultural Zone
- RS One and Two Family Residential Zone
- G3 General Business Zone
- IN Industrial Zone

The above zones and boundaries of such zones are hereby established as shown on the map entitled "Grandview, Indiana Zone Map" which accompanies this ordinance and is on file in the office of the clerk-treasurer and the plan commission. Notations, references, indications and other matters shown on the zone map are as much a part hereof as if they were fully described herein. (Ord. 98-unnumbered, S3.010, June 1, 1998) (Ord. 1983, unnumbered, S3.010, Sept. 12, 1983)

10.06.030.020 Interpretation of zone boundaries. When uncertainty exists as to the boundaries of the zones shown on the zone map, the following rules apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, rivers, or other bodies of water shall be construed to follow such center lines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated as approximately following town limits shall be construed as following the town limits;
- (4) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (3) above shall also be so construed. Distances not specifically indicated on the zone map shall be determined by the scale of the map;
- (5) Where physical or cultural features existing on the ground are at variance with those shown on the zone map, or in other circumstances not covered by subsections (1) through (4) above, the board of zoning appeals shall interpret the district boundaries.

- (6) When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated.
- (7) The boundaries of the zones established by this section are as shown on the zone map, which is a part of this ordinance. Such boundaries may be changed only by amending this ordinance as provided in IC 37-7-4-607-609.
- (8) All territory which is hereafter annexed to the town shall be considered to be zoned in the same manner as the contiguous territory inside the previous corporate limits until otherwise classified. (Ord. 1983-unnumbered, S3.020, Sept. 12, 1983)

10.06.040 ZONE REGULATIONS

10.06.040.010	Authorized uses and requirements
10.06.040.020	FP Flood plain zone: purpose
10.06.040.021	Basis for establishing flood plain zones
10.06.040.030	AG Agricultural zone
10.06.040.040	RS One and two family residential zone
10.06.040.050	GB General business zone
10.06.040.060	IN Industrial zone
10.06.040.061	Other applicable permits required

10.06.040.010 Authorized uses and requirements. Authorized uses and requirements for said uses are as follows:

- (1) All primary uses permitted in the zones established in section 10.06.030.010 are show in Table 1. Where the zone column is marked with an “X” the use is permitted. Where the zone column is marked with an “S” the use may be permitted only as a special exception under section 10.06.050.010 et. seq.
- (2) All uses shall conform with the general zone regulations as listed in Table 2, Table 3, or Table 4, as said regulations are applicable. Also, any additional applicable regulations given in this code shall be followed.
- (3) For uses not listed, the provisions of sections 10.06.060.010 et. seq. shall apply. (Ord. 1983-unnumbered, S4.010, Sept. 12, 1983)

TABLE 1

**AUTHORIZED USES
(1 of 9 pages)**

(As amended by ordinance 1997-7-3, July 28, 1997)

**X - Permitted Use
S - Special Exception**

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
RESIDENTIAL USES					
Day care center and home day nursery		S	S	X	
Dwelling, farm	S	X	X	X	
Dwelling, single family	S	X	X	X	
Dwelling, two-family		S	X	X	
Dwelling, multi-family		S	S		
Farm seasonal worker housing tenant		X	X	X	
Home for the aged			S(1)	S(1)	
Home occupation		X	X	X	
Mobile home	S	S	S		
Private swimming pool (2)		X	X	X	
Residential home park	S	S	S		
RETAIL TRADE: GENERAL MERCHANDISE					
Department store				X	
Electrical supply store				X	
General merchandise store				X	
Hardware store				X	
Lumber and building materials dealer				X	X
Paint, glass and wallpaper store				X	
Plumbing, heating & air conditioning dealer				X	
Variety store				X	
Other similar uses				S	
RETAIL TRADE: FOOD STORES					
Candy, nut and confectionary				X	
Dairy Products				X	
Delicatessen				X	
Fruits and vegetables				X	
Grocery				X	
Health foods				X	
Ice cream				X	
Meal and fish				X	
Retail bakeries - baking & selling				X	X
Supermarket				X	
Other similar uses				S	

(1) Location must be approved by board as provided in Sections 10.06.020.072 and 10.06.050.090 et. seq.

(2) Must be enclosed by an animal proof fence not less than 3 feet in height and maintained in agreement with all county & state board of health laws.

TABLE 1
AUTHORIZED USES
(2 of 9 pages)

X - Permitted Use
S - Special Exception

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
RETAIL TRADE: APPAREL AND ACCESSORY STORES					
Apparel shop				X	
Children's and Infant's wear				X	
Custom tailors				X	
Family clothing				X	
Men's and boy's clothing				X	
Shoes				X	
Women's accessories and specialties				X	
Women's ready-to-wear				X	
Other similar uses				S	
RETAIL TRADE: FURNITURE, HOME FURNISHINGS AND EQUIPMENT STORES					
China, glassware and metalware				X	
Drapery, curtain and upholstery				X	
Floor coverings				X	
Furniture				X	
Household appliances				X	
Music and records				X	
Radio and television shop				X	
Other similar uses				S	
RETAIL TRADE: EATING AND DRINKING ESTABLISHMENTS					
Cafeteria				X	
Carry-out restaurant				X	
Drive-in restaurant				S	
Lunch room				X	
Night club				X	
Restaurant				X	
Tavern				X	
Other similar uses				S	

TABLE 1

**AUTHORIZED USES
(3 of 9 pages)**

(As amended by Ordinance 1997-7-3, July 28, 1997)

X - Permitted Use

S - Special Exception

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
RETAIL TRADE: MISCELLANEOUS RETAIL STORES					
Antique and secondhand stores		S		X	
Bait sales				X	
Bicycle shops				X	X
Boat sales				X	
Book and stationery stores				X	
Camera and photographic supply stores				X	
Cigar stores				X	
Drug and proprietary stores				X	
Farm and garden supply				X	X
Florists				X	
Gift, novelty and souvenir shops				X	
Hobby, toy and game shops				X	
Jewelry store				X	
Liquor store				X	
Monument sales				X	
News dealers				X	
Pet shop				X	
Pharmacy				X	
Sporting goods				X	
Studio business				X	
Trading stamp store				X	
Other similar uses	S			S	
FINANCE AND INSURANCE					
Agricultural credit institutions				X	
Banks				X	
Bond and mortgage companies				X	
Installment sales finance companies				X	
Insurance agents, brokers and service				X	
Personal finance companies				X	
Savings and loan associations				X	
Stock brokers and dealers				X	
Other similar uses				S	

TABLE 1
AUTHORIZED USES
(4 of 9 pages)

X - Permitted Use
S - Special Exception

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
AUTOMOTIVE DEALERS, REPAIR AND SERVICES					
Automatic car wash				X	
Automobile body shop and painting				X	X
Automobile parts				X	
Automobile repair				X	X
Automobile sales, new and used cars				X	X
Automobile service stations				X	X
Mobile home, travel trailer and camper sales and rental				X	X
Motorcycle and motor scooter sales				X	X
Parking garage				X	X
Parking lot				X	X
Passenger car rental and leasing				X	
Storage of disabled vehicles				S	S
Tire, battery and accessory dealers				X	
Truck rental and leasing				X	X
Truck repair				X	X
Truck sales, new and used				X	X
Truck service center				X	X
Other similar uses				S	S
MISCELLANEOUS REPAIR SERVICES					
Electrical repair shops				X	
Reupholstery and furniture repair				X	
Watch, clock, and jewelry repair				X	
Other similar uses				S	
MEDICAL SERVICES					
Blood banks		S	S	X	S
Clinics		S	S	X	S
Convalescent homes		S	S	X	S
Medical and dental laboratories				X	
Medical and dental offices		S	S(1)	X	S
Nursing home		S	S(1)	X	S
Optometrists		S	S	X	S
Other similar uses		S	S	X	S

(1) Noncommercial institutions.

TABLE 1
AUTHORIZED USES
(5 of 9 pages)

X - Permitted Use
S - Special Exception

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
PERSONAL SERVICES(1)					
Auto license bureaus	S	S	S	X	S
Barber shops		S	X	X	
Beauty shops		S	X	X	
Clothing rental				X	
Coin operated laundry and dry cleaning				X	
Diaper service				X	
Dressmaking		S	X	X	
Funeral parlor or mortuary				X	
Laundry or dry cleaning agency				X	
Photographic studios				X	
Professional offices		S	X	X	
Reducing salons				X	
Shoe repair		S	X	X	
Tailor and pressing shop				X	
Other similar uses				S	
MISCELLANEOUS PERSONAL SERVICES					
Accounting, auditing and bookkeeping services			S	X	
Engineering and architectural services			S	X	
Real estate services			S	X	
Other similar uses			S	S	

(1) Home occupations permitted if the residential character of the dwelling is not changed and not more than one (1) assistant is employed.

TABLE 1
AUTHORIZED USES
(6 of 9 pages)
X - Permitted Use
S - Special Exception

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
MISCELLANEOUS SERVICES					
Advertising agencies				X	
Advertising structures (1)	X	X	X	X	X
Blueprinting and photocopying				X	
Consumer credit, adjustment and collection agencies				X	
Direct mail advertising services				X	
Disinfecting and exterminating service				X	X
Kennel	S	S		X	X
Private employment agencies				X	
Signs (1)	X	X	X	X	X
Stenographic services				X	
Temporary help supply services				X	
Other similar uses				S	
AMUSEMENT AND RECREATION SERVICES					
Billiard and pool establishments				X	
Bowling alleys				X	
Dance halls, studios and schools				X	
Fairgrounds	X	X	X	S	S
Golf and country clubs	X	X	X	S	S
Golf driving ranges	X	X	X	S	S
Lodge or private club				X	
Marina	X	X	X		
Miniature golf course	X	X	X	X	
Motion picture theater				X	
Outdoor recreation enterprise	S	S	S		
Private recreational development	S	S	S		
Public camping grounds	S	S	S		
Public golf course	X	X	X	S	S
Riding stables (2)		X			
Seasonal hunting or fishing lodge	S	X	S		
Shooting range (outdoor)	S	S	S		
Skating rinks				X	
Stadium, coliseum or athletic field				S	
Tennis clubs	S	S	S		
Theater, outdoor			S		
Travel trailer park		S			
Other similar uses	S	S	S	S	

- (1) Permitted provided that they shall be erected in accordance with the provisions of Sections 10.06.050.060 et. seq.
- (2) Permitted provided that it is of a private, non-commercial nature on at least three (3) acres of land.

TABLE 1
AUTHORIZED USES
(7 of 9 pages)

X - Permitted Use
S - Special Exception

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
EDUCATIONAL SERVICES					
Art and music schools		S	S	X	S
Elementary and secondary schools		X	S	S	S
Libraries and information centers		X	S	S	S
Trade or business schools		S	S	X	S
GOVERNMENT					
Municipal or government building	S	X	S	S	S
Penal or correctional institution	S	S	S	S	S
Police or fire station	S	X	S	S	S
Postal station	S	X	S	S	S
Public park or recreational facilities	X	X	X		
LEGAL SERVICES					
Attorney			S	X	
Counselor-at-large			S	X	
NON-PROFIT MEMBERSHIP ORGANIZATIONS (1)					
Business associations		X	S	X	S
Charitable institutions		X	S	X	S
Church or temple		X	S	X	S
Civic, social and fraternal organizations		X	S	X	S
Labor unions		S	S	X	S
Political organizations		X	S	X	S
Religious organizations		X	S	X	S

(1) Location must be approved by board as provided in Sections 10.06.020.072 and 10.06.050.090 et. seq.

TABLE 1
AUTHORIZED USES
(8 of 9 pages)

(As amended by Ordinance 1997-7-3, July 28, 1997)

X - Permitted Use
S - Special Exception

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
AGRICULTURAL USES					
Commercial greenhouse				X	X
Farm, confinement feeding		X			
Farm equipment, sales and service				X	X
Farm, general	X	X	X		
Greenhouse (not exceeding 1,000 square feet)				X	X
Hay, grain and feed stores				X	X
Plant nursery	X	X	X	X	X
Roadside produce sales stand (1)		X		S	
Sales barn for livestock resale				X	X
INDUSTRIAL USES					
Anhydrous ammonia or similar liquified fertilizers, storage and distribution (commercial)				X	X
Auction sales yard (excluding livestock)		S		X	X
Comm. Facility for raising or breeding non-farm fowl and animals		S		X	X
Contractors storage yard				X	X
Food Processing					X
Fuel and ice dealers				X	X
Industrial park					X
Industry, general	S				X
Industry, light					X
Junk yard		S			S
Linen supply				X	
Liquified petroleum gas (bottled gas) dealer				X	X
Manufacturing, storage or use of explosives					X
Material storage (open)					X
Petroleum tank farm (commercial)					X
Slaughter house		S			X
Truck freight terminal				X	X
Warehouse (grain storage facilities)		S		X	X
Warehouse (storage)				X	X
Wholesale business				X	X
Wholesale produce terminal		S		X	X

(1) Permitted provided that off-street parking shall be provided in accordance with Sections 10.06.050.070 et. seq.

TABLE 1
AUTHORIZED USES
(9 of 9 pages)
(As amended by Ordinance 1997-7-3, July 28, 1997)
X - Permitted Use
S - Special Exception

PRIMARY USE	DISTRICTS IN WHICH PERMITTED				
	FP	AG	RS	GB	IN
TRANSPORTATION, COMMUNICATIONS AND UTILITIES					
Micro-wave towers	S	X	S	S	S
Public or commercial sanitary landfill or garbage disposal plant	S	X	S	S	S
Public water wells, water stations, filtration plants, reservoirs and storage tanks	S	X	S	S	S
Radio-T.V. Transmitting towers	S	X	S	S	S
Railway or motor bus station	S	X	S	S	S
Telegraph office				X	
Telephone exchange or public utility substation	S	X	S	S	S
Transmission lines for gas, oil, electricity or other utilities	X	X	X	S	S
MINERAL EXTRACTION					
Limestone, quarrying					
Coal mining					
Other					
USES NOT ELSEWHERE CLASSIFIED					
Cemetery or crematory	S	S	S	S	S
Home professional office		X			
Hotel or motel				X	
Locker, cold storage for individuals				X	
Shopping Center				X	
Tourist home		S	S(1)	X	
Veterinary hospital for small animals	S	S		X	
Newspaper Publishing				X	X

(1) Location must be approved by board according to Sections 10.06.020.072 & 10.06.050.090 et. seq.

TABLE 2

**DISTRICT REQUIREMENTS FOR RESIDENTIAL USE
SINGLE FAMILY DWELLINGS
(As amended by Ordinance 1997-7-3, July 28, 1997)
(As amended by Ordinance 1998-unnumbered, June 1, 1998)**

Requirements for Permitted Uses (4)	RS Zone	AG Zone
Minimum Lot Area Unit		
With Public Water & Sewers	7,200 sq. ft.	10,000 sq. ft.
With Public Sewers	12,000 sq. ft.	20,000 sq. ft.
Without Public Sewers	38,000 sq. ft.	38,000 sq. ft.
Minimum Lot Width		
With Public Water & Sewers	60'	100'
With Public Sewers	75'	100'
Without Public Sewers	150'	150'
Maximum Building Height (1)	2 stories not to exceed 25'	35'
Minimum Front Yard (2)	30'	30'
Primary Highway	70'	70'
Secondary Highway	60'	60'
Arterial Highway	75'	75'
Local Street	30'	30'
Minimum Side Yard (in % of lot width or feet)		
Minimum Width of One Yard		
With Public Water & Sewer	10%	10% or 15' whichever less
Without Public Water & Sewer	10%	20'
Aggregate Width of Both Yards		
With Public Water & Sewer	25%	25% or 35' whichever less
Without Public Water & Sewer	25%	45'
Minimum Rear Yard (in % of lot depth)	25%	25%
Minimum Ground Floor Building Area	950 sq. ft.	950 sq. ft.
Maximum Lot Coverage (in % of lot area)	35%	20%
Maximum Primary Dwellings Per Lot	1	1
Minimum Dwelling Roof Pitch	3" rise to 12" run	3" rise to 12" run
Minimum Dwelling Roof Overhang (3)	8"	8"
Minimum Dwelling Width	14'	14'
Dwelling Exterior Siding Material	Must extend at least to ground or top of foundation	
Dwelling Foundation	Must at least be engineered to accommodate vertical loads, uplift, and lateral forces, must have a lower surface placed below the frost line, and must attach to the home such that the home becomes part of the real property. Must have a concrete under floor space enclosure equal to the perimeter of the dwelling	
Prohibited Dwelling Materials	Transport materials such as tow bars, wheels, and axles; exterior siding material with a high-gloss finish; and exterior roof material with a high-gloss finish or made as a vinyl or rubber sheet covering	

- (1) For exception, See Section 10.06.060.020 et. seq.
- (2) For exceptions to yard regulations, See Section 10.06.060.030 et. seq.
- (3) Overhang depth is measured for primary, perimeter roof areas of more than 36 inches in length. The requirement for minimum dwelling roof overhang may be exempted for manufactured homes of a width of less than 20 feet but still meeting all other requirements for residential dwellings. (As added by Ordinance 1997-7-3, July 28, 1997)
- (4) For exceptions relevant to residential home parks, See Section 10.06.060.011.13 et. seq. (As added by Ordinance 1997-7-3, July 28, 1997)

TABLE 3
DISTRICT REQUIREMENTS FOR RESIDENTIAL USES
MULTI-FAMILY DWELLINGS
(page 1 of 2)
(As amended by Ordinance 1997-7-3, July 28, 1997)

Requirements for Permitted Uses	RS Zone	AG Zone (1)
Minimum Lot Area Unit With Public Sewers Without Public Sewers	10,000 sq. ft. per unit for first 2 + 4,500 sq. ft. for each additional unit 20,000 sq. ft. per unit for first 2 + 4,500 sq. ft. for each additional unit	
Minimum Lot Width With Public Sewers Without Public Sewers	As platted or 100' As platted or 150'	100' 150'
Maximum Building Height (2)	2 stories or 25'	35'
Minimum Area of Ground Floor	950 sq. ft. + 480 sq. ft. per additional unit	
Maximum Lot Coverage (in % of lot area)	35%	20%

- (1) Single and two-family dwellings are permitted in the AG Zone.
- (2) See Section 10.06.060.020 et. seq. for exceptions.
- (3) Overhang depth is measured for primary, perimeter roof areas of more than 36 inches in length. The requirement for minimum dwelling roof overhang may be exempted for manufactured homes of a width of less than 20 feet but still meeting all other requirements for residential dwellings. (As added by Ordinance 1997-7-3, July 28, 1997)

TABLE 3
DISTRICT REQUIREMENTS FOR RESIDENTIAL USES
MULTI-FAMILY DWELLINGS
(page 2 of 2)
(As amended by Ordinance 1997-7-3, July 28, 1997)
(As amended by Ordinance 1998-unnumbered, June 1, 1998)

Requirements for Permitted Uses	RS Zone	AG Zone (1)
Minimum Front Yard	30'	30'
Primary Highway	70'	70'
Secondary Highway	60'	60'
Arterial Highway	75'	75'
Local Street	30'	30'
Minimum Side Yard (in % of lot width or feet)		
Minimum Width of One Yard With Public Sewers	6'	45' + 4' per additional unit
Without Public Sewers	6'	20' + 2' per additional unit
Aggregate Width of Both Yards With Public Water & Sewer	20% with neither less than 6'	10% or 15' whichever less + 2' per additional unit
Without Public Water & Sewer	20% with neither less than 6'	25% or 35' whichever less + 2' per additional unit
<u>Minimum Dwelling Roof Pitch</u>	<u>3" rise to 12" run</u>	<u>3" rise to 12" run</u>
<u>Minimum Dwelling Roof Overhang (3)</u>	<u>8"</u>	<u>8"</u>
<u>Minimum Dwelling Width</u>	<u>14'</u>	<u>14'</u>
<u>Dwelling Exterior Siding Material</u>	<u>Must extend at least to ground or top of foundation</u>	
<u>Dwelling Foundation</u>	<u>Must at least be engineered to accommodate vertical loads, uplift, and lateral forces, must have a lower surface placed below the frost line, and must attach to the home such that the home becomes part of the real property. Must have a concrete under floor space enclosure equal to the perimeter of the dwelling.</u>	
<u>Prohibited Dwelling Materials</u>	<u>Transport materials such as tow bars wheels, and axles; exterior siding material with a high-gloss finish; and exterior roof material with a high-gloss finish or made as a vinyl or rubber sheet covering</u>	

- (1) Single and two-family dwellings are permitted in the AG Zone.
- (3) Overhang depth is measured for primary, perimeter roof areas of more than 36 inches in length. The requirement for minimum dwelling roof overhang may be exempted for manufactured homes of a width of less than 20 feet but still meeting all other requirements for residential dwellings. (As added by Ordinance 1997-7-3, July 28, 1997)

TABLE 4

**COMMERCIAL AND INDUSTRIAL REQUIREMENTS
(As amended by Ordinance 1998-unnumbered, June 1, 1998)**

Requirements for Permitted Uses (1)	GB	IN
Minimum Front Yard	30'	30'
Primary Highway	70'	70'
Secondary Highway	60'	60'
Arterial Highway	75'	75'
Collector Highway or Local Street	30'	30'
Minimum Side Yards		
Adjoining RS District	4'/story but not less than 6'	4'/story but not less than 6'
Not Adjoining RS District	Not Required(2)	Not Required(2)
Minimum Rear Yard		
Adjoining RS District	20% of lot up to depth of 20'	20% of lot up to depth of 20'
Not Adjoining RS District	Not Required (2)	Not Required (2)
Maximum Building Height (3)	3 stories or 45'	45'
Maximum Lot Coverage (in % of Lot Area)	None (4)	None (4)
Off-Street Parking Parking Space Per Sq. Ft. of Gross Floor Area of Building Area--Warehousing and storage not included	One parking space/ 200 square ft.	One parking space/ 100 square ft.

- (1) For exceptions to yard requirements, see Section 10.06.060.030 et. seq.
- (2) If a side or rear yard is provided, said yard shall not be less than four (4) feet in width.
- (3) For exceptions to height of structures, see Section 10.06.060.020 et. seq. Also, no building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained to exceed the height requirements of an adjacent RS zone when such building or structure is within one hundred fifty (150) feet of said adjacent RS zone.
- (4) Provided that established neighborhood set back and sidelines, if any, shall be followed and/or yard requirements shall be followed as stated above.

10.06.040.020 FP Flood plain zone: purpose. Flood zones in general are created to protect the public health and to reduce the financial burdens which may be imposed on the community, its governmental units, and its individuals as a result of improper use of lands having excessively high water tables or which are subject to frequent and periodic floods. Unmanaged development of the floodable lands along the Ohio River could result in just such a burden to the town of Grandview, as well as result in the loss of life and property and create health and safety hazards for its citizens. (Ord. 1983-unnumbered, S4.020, Sept. 12, 1983)

10.06.040.021 Basis for establishing flood plain zones. The purpose of the "FP" Flood plain zone is to guide development in areas where a potential for damage from floodwater exists but for which detailed flood data has not been provided. The zone designated as FP is an overlay zone in that uses in all other zones may also be approved after the FP zone regulations as set forth in Title 10.06.045 have been met. (Ord. 1998-unnumbered, S4.021, June 1, 1998)

Section 4.022 National Flood Insurance Program regulations - repealed by Ordinance 1998-unnumbered, June 1, 1998

Section 4.023 - repealed by Ordinance 1998-unnumbered, June 1, 1998

Section 4.024 - repealed by Ordinance 1998-unnumbered, June 1, 1998

Section 4.025 - repealed by Ordinance 1998-unnumbered, June 1, 1998

Section 4.026 - repealed by Ordinance 1998-unnumbered, June 1, 1998

Section 4.027 - repealed by Ordinance 1998-unnumbered, June 1, 1998

Section 4.028 - repealed by Ordinance 1998-unnumbered, June 1, 1998

10.06.040.030 AG Agricultural zone. In addition to the permitted uses listed in Table 1, the following uses are permitted in the AG Agricultural Zone if the attached conditions are met:

- (1) Accessory buildings and uses customarily incidental to any of the permitted uses listed in Table 1 including home occupation, provided that the residential character of such dwelling is not changed and that there shall be not more than one assistant employed.
- (2) Professional office in a one-family dwelling, provided that such use is incidental to the main use as a dwelling and further provided that such use is limited to a person actually residing in the dwelling.

All uses shall meet the requirements for the AG Agricultural Zone as set forth in Table 2 and Table 3. (Ord. unnumbered, S4.030, Sept. 12, 1983)

10.06.040.040 RS One and two family residential zone. Uses permitted in the RS one and two family residential zone are identified in Table 1. Said uses shall meet all applicable requirements provided in Table 2. Also permitted in the RS one and two family residential zone are accessory buildings and uses customarily incidental to the uses listed in Table 1, including home occupations, provided that the residential character of such dwelling is not changed and not more than one assistant is employed. (Ord. 1983-unnumbered, S4.040, Sept. 12, 1983)

10.06.040.050 GB General business zone. Regulations governing permitted uses in the GB General Business Zone are listed in Table 4. Uses identified as permitted in this zone are listed in Table 1. In addition, the uses listed below are permitted if they meet the attached conditions. Unless otherwise provided, permitted uses shall be conducted wholly within a building, except for off-street loading of delivery vehicles which are incidental thereto as provided in section 10.06.050.076 et. seq.

- (1) Automobile service stations. Automobile service stations shall be permitted, provided that any tire or tube repairing, battery charging and storing of merchandise or supplies are conducted wholly within a building. Plans for the erection or structural alteration of an automobile service station shall be approved by the commission. The commission may required such change therein in relation to yards, location of pumps and buildings and construction of buildings as it may deem best suited to insure safety, to minimize traffic difficulties and to safeguard adjacent properties.
- (2) The following uses or uses of a similar type pertinent to farm commodities provided where they are within one hundred fifty (150) feet of a lot of a more restrictive zone, they shall be conducted wholly within the building or within an area screened on all sides by a masonry wall, compact evergreen planting, or uniformly painted ornamental wood fence not less than six (6) feet in height. Said screening shall be maintained between such use and adjoining residential zones except for off-street loading and delivery vehicles which are incidental thereto as required in section 10.06.050.076 et. seq.
 - A. Agricultural implement, automobile or trailer sales or repair provided that any display or storage area shall be developed as required in section 10.06.050.040 et. seq.; any incidental repair of implements, automobiles, or trailers shall be conducted and confined wholly within a building.
 - B. Building material sales yard, including the sale of lumber (where no millwork is provided), rock, sand and gravel but excluding concrete and asphaltic concrete mixing.

- C. Farm equipment storage yard or equipment rental establishment.
- D. Draying, freighting, or trucking yard or terminal.
- E. Feed sales.
- F. Creamery or ice-cream manufacture.
- G. Wholesale florist, greenhouse.
- H. Poultry or rabbit killing incidental to retail sales on the premises.
- I. Underground bulk storage and fuel oil, liquified petroleum gas and gasoline in amounts not to exceed 50,000 gallon capacity.

(3) The following uses or uses of a similar type, not pertinent to farm commodities provided they meet the requirements indicated in subsection (2) above shall be permitted.

- A. Auction hall, amusement enterprise, including billiard or pool hall, bowling alley, boxing arena, dance hall, games of skill or science, penny arcade, shooting gallery, and the like if the nearest point of the structure is not less than 200 feet from any R zone.
- B. Bottling works.
- C. Drive-in business - where persons are served in automobiles from a refreshment stand, restaurant, food store and the like, provided the area is screened by a masonry wall, compact evergreen planting or uniformly painted wood fence not less than six (6) feet in height. Said screening shall be erected and maintained between such uses and any adjoining R zone or residential development.

(4) The following uses or uses of a similar type provided that, where they are within 150 feet of a lot in a more restricted zone they shall be conducted wholly within a building; except for the off-street loading of delivery vehicles which are incidental thereto as required in section 5.070 et. seq.

- A. Carpenter, cabinet, plumbing or sheet metal fabricating shops, but excluding manufacture.
- B. Ice manufacture or cold storage.

- C. Warehousing.
 - D. Wholesale merchandise storage.
 - E. Any use permitted in the IN zone provided that not more than ten percent (10%) of the rentable floor area of any floor of a building is devoted to such use. In determining the floor area so used, it shall be all the rentable floor area occupied by concerns engaged in such production activities exclusive of that used for offices, display, waiting rooms, or clerical work.
 - F. Pawnshop.
 - G. Rescue or temporary revival mission.
 - H. Trade or business school or private school operated as commercial enterprise.
- (5) The following uses or uses of a similar type provided that they are wholly within a building except for off-street loading of delivery vehicles which are incidental thereto as required in section 10.06.050.076.
- A. Art or antique shop.
 - B. Second hand store.
 - C. Upholstering shop.
- (6) The following uses or uses of a similar type provided that, where they are within 150 feet of a lot in a more restricted zone they shall be conducted wholly within a building or within an area enclosed on all sides with a solid wall, compact screen or uniformly painted board fence, not less than four (4) feet in height; except for the off-street loading of delivery vehicles which are incidental thereto as required in section 10.06.050.076 et. seq.
- A. Building material sales yard, including the sale of lumber, rock, sand and gravel, but excluding concrete and asphaltic concrete mixing.
 - B. Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors.
 - C. Draying, freighting, or trucking yard or terminal.
 - D. Feed or fuel yard.

Uses customarily incidental to any of the above uses and accessory buildings shall be permitted when located on the same lot.

Public parking areas shall be permitted for the exclusive use of the patrons of the stores, shops or businesses in the immediate business zone when located and developed as required in section 10.06.050.070 et. seq. (Ord. 1983-unnumbered, S4.050, Sept. 12, 1983)

10.06.040.060 IN Industrial zone. Uses permitted in the IN Industrial zone are identified in Table 1. Said uses shall meet all applicable requirements as provided in Table 4. In addition to the uses and requirements listed in the above said tables, the uses listed below are permitted if the attached requirements are met:

- (1) Any use permitted in the G3 General business zone provided all the uses therein shall be subject to the same limitations and controls as specifically set forth in the GB zone.
- (2) The following uses or uses of a similar type, provided that, when they are within one hundred (100) feet of a lot in a more restrictive zone they shall be conducted wholly within a building, except for off-street loading of delivery vehicles as required in section 10.06.050.076 et. seq.
 - A. The manufacture, compounding, processing, packaging, or treatment of food products excepting fish and meat products, sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils.
 - B. The manufacture of pottery or figurines or any other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
 - C. Automobile assembly, painting, upholstering, rebuilding, reconditioning, truck repair or overhauling, tire retreading or recapping, and battery manufacturing.
 - D. Blacksmith shops, the manufacturing of machine tools, manufacturing of machinery, including agricultural, electrical machinery or equipment, office or store machines, equipment or supplies and the like, machine shops.
 - E. Foundries, casting light weight, non-ferrous, metals not causing noxious fumes or odors.
 - F. Animal hospitals or kennels.
 - G. Chick hatcheries.

- H. Underground storage of fuel oil, liquified petroleum gas and gasoline in amounts not to exceed 120,000 gallon capacity.
- (3) The following uses or uses of a similar type, provided the operations are carried on completely within the buildings or an area enclosed with dense screen plantings or a solid fence:
- A. Auto wrecking.
 - B. Bleaching or dyeing.
 - C. Body or fender works.
 - D. Breweries or liquor distilleries.
 - E. Stone cutting.
 - F. Storage, sorting, collection or bailing of rags, paper, metal, or junk.
- (4) The following uses or uses of a similar type, provided where they are within one hundred fifty (150) feet of a residential zone or area or business zone they shall be contained wholly within a building or within an area enclosed on all sides with a solid wall, compact evergreen screen or uniformly painted board or metal fence which shall not allow any stored material to be viewed from the opposite side of any immediately adjacent street by a line of sight, the origin of which shall be not less than six (6) feet; except for the off-street parking and loading of delivery vehicles which are incidental thereto as required in section 10.06.050.076.
- A. Acetylene gas manufacture or storage.
 - B. Agriculture.
 - C. Alcohol manufacture.
 - D. Ammonia or bleaching powder manufacturing.
 - E. Asphalt manufacturing or refining.
 - F. Boiler works, locomotive or railroad car manufacturing.
 - G. Brick, tile, terra cotta or cinder block manufacturing.
 - H. Carbon or lampblack manufacturing.
 - I. Central station light or power plant.
 - J. Coal distillation including manufacture or derivation of the by-products.
 - K. Coke oven.

- L. Creosote manufacture or treatment.
- M. Furniture manufacture.
- N. Garbage feeding or disposal.
- O. Gas manufacture from coal or petroleum or the storage thereof.

- P. Incinerator, industrially affiliated.
- Q. Iron or steel foundry, steel furnace or rolling mill, except smelting.
- R. Meat products manufacture.
- S. Oilcloth or linoleum manufacture.
- T. Paint, oil (including linseed), shellac, turpentine, lacquer or varnish manufacture.
- U. Planeing mill
- V. Plastic Manufacture.
- W. Power forge.
- X. Pyroxylin manufacture.
- Y. Railroad yards including turntables and repair facilities.
- Z. Rubber or gutta-percha manufacture or treatment.
- AA. Soap manufacture.
- BB. Stove or shoe polish manufacture.
- CC. Tanning, curing or storage of raw hides.
- DD. Tar distillation or tar products manufacture. (Ord. Unnumbered, S4.060, Sept. 12, 1983)

10.06.040.061 Other applicable permits required. No improvement location permit shall be issued under this ordinance for an industrial use or structure until the applicant has present proof to the zoning administrator that he has obtained a valid permit or permits as required by state statutes for industrial air pollution control, water pollution control or similar environmental protection from the Indiana State Board of Health and other state agencies. In addition, applicants must also comply with any other conditions or applicable provisions of this ordinance. (Ord. unnumbered, S4.061, Sept. 12, 1983)

10.06.045 FLOODPLAIN OVERLAY ZONING REGULATIONS

10.06.045.510	Floodplain Overlay District
10.06.045.511	Definitions
10.06.045.512	Duties of the Zoning Administrator of the Town
10.06.045.513	Regulatory Flood Elevation
10.06.045.514	Improvement Location Permit
10.06.045.515	Preventing Increased Damages
10.06.045.516	Protecting Buildings
10.06.045.517	Other Development Requirements
10.06.045.518	Variances
10.06.045.519	Disclaimer of Liability
10.06.045.520	Violations
10.06.045.521	Abrogation and Greater Restrictions
10.06.045.522	Separability

10.06.045 FLOODPLAIN OVERLAY ZONING REGULATIONS

10.06.045.510 Floodplain Overlay District. There is established a floodplain zone. The zone designated as the FP Flood Plain Zone on the Grandview Zone Map is an overlay district as herein described whose restrictions shall be in addition to those of the underlying zoning district. Wherever a discrepancy exists between the floodplain regulations and the zoning district regulations, the more restrictive shall apply.

- (1) Statutory Authorization. The Indiana Legislature granted the power to local units of government (IC 36-7-4) to control land use within their jurisdictions in order to accomplish the following.
- (2) Statement of Purpose. The purpose of this section is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Town hereby adopts the following floodplain management regulations in order to accomplish the following:
 - A. to prevent unwise developments from increasing flood or drainage hazards to others;
 - B. to protect new buildings and major improvements to buildings from flood damage;
 - C. to protect human life and health from the hazards of flooding;

- D. to lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- E. to maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- F. to make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program. (Ord. 1998-unnumbered, S4.510, June 1, 1998)

10.06.045.511 Definitions. For the purpose of this Title, the following definitions are adopted:

- (1) Building - see “structure.”
- (2) Development - any man-made change to improved or unimproved real estate including but not limited to:
 - A. construction, reconstruction, or placement of a building or any addition to a building;
 - B. installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
 - C. installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - D. construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
 - E. mining, dredging, filling, grading, excavation, or drilling operations;
 - F. construction and/or reconstruction of bridges or culverts;
 - G. storage of materials; or
 - H. any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

- (3) Existing manufactured home park or subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Title.
- (4) Expansion to an existing manufactured home park or subdivision - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactures homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.)
- (5) FBFM - means Flood Boundary and Floodway Map.
- (6) FEMA - means Federal Emergency Management Agency.
- (7) FHBM - means Flood Hazard Boundary Map.
- (8) FIRM - means Flood Insurance Rate Map.
- (9) Flood - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
- (10) Floodplain - the channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.
- (11) Flood Protection Grade or the "FPG" - the elevation of the regulatory flood plus two feet at any given location in the SFHA.
- (12) Floodway - the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- (13) Floodway fringe - means those portions of the flood plain areas lying outside the floodway.
- (14) Letter of Map Amendment (LOMA) - An amendment to the currently effective FEMA, map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

- (15) Letter of Map Revision (LOMR) - An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- (16) Lowest Floor - means the lowest of the following:
- A. the top of the lowest floor of a building;
 - B. the top of the basement floor;
 - C. the top of the garage floor, if the garage is the lowest level of the building;
 - D. the top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
 - E. the top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - 1. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
 - 2. such enclosed space shall be usable for the parking of vehicles and building access.
- (17) Manufactured home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”
- (18) New manufactured home park or subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.
- (19) Recreational vehicle - means a vehicle which is
- A. built on a single chassis;

- B. 400 square feet or less when measured at the largest horizontal projections;
 - C. designed to be self-propelled or permanently towable by a light duty truck; and
 - D. designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.
- (20) Regulatory Flood - means the flood having a one (1) percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in section 10.06.045.513 of this section. The “regulatory flood” is also known by the term “base flood.”
- (21) SFHA or Special Flood Hazard Area - means those lands within the jurisdiction of the Town that are subject to inundation by the regulatory flood. The SFHAS of the Town are generally identified as such on the Flood Insurance Rate Map of the Town prepared by the Federal Emergency Management Agency and dated January 18, 1983, along with any subsequent amendments or revisions which are hereby adopted by reference and declared to be a part of this Title. The SFHAs of those parts of unincorporated Spencer County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Flood Insurance Rate Map prepared for Spencer County by the Federal Emergency Management Agency and dated May 1, 1978, along with any subsequent amendments or revisions which are hereby adopted by reference and declared to be a part of this Title.
- (22) Structure - means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.
- (23) Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “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 structure's continued designation as a "historic structure." (Ord. 1998-unnumbered, S4.511, June 1, 1998)

10.06.045.512 Duties of the Zoning Administrator of the Town. The Zoning Administrator of the Town is appointed to review all development and subdivision proposals to ensure compliance with this section, including but not limited to the following duties:

- (1) Ensure that all development activities within the SFHAs of the jurisdiction of the Town meet the requirements of this section.
- (2) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- (3) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to section 10.06.045.515 of this Title, and maintain a record of such authorization (either copy of actual permit or floodplain analysis and regulatory assessment).
- (4) Maintain a record of the "as built" elevation of the top of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction.
- (5) Maintain a record of the engineer's certificate and the "as built" floodproofed elevation of all buildings subject to section 10.06.045.516 of this Title.
- (6) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this section. Submit reports as required for the National Flood Insurance Program.
- (7) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments, federal permit documents and "as built" elevation and floodproofing data for all buildings constructed subject to this section.
- (8) Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA. (Ord. 1998-unnumbered, S4.512, June 1, 1998)

10.06.045.513 Regulatory Flood Elevation. This Title's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the

detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

- (1) The regulatory flood elevations and floodway limits for the SFHAs of the Town shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the Town prepared by the Federal Emergency Management Agency and dated January 18, 1983, and the corresponding FIRM dated July 18, 1983 prepared by the Federal Emergency Management Agency, along with any subsequent amendments or revisions which are hereby adopted by reference and declared to be a part of this Title.
- (2) The regulatory flood elevation for each SFHA delineated as an “AH Zone” or “AO Zone” shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the Town.
- (3) The regulatory flood elevation for each of the remaining SFHAs delineated as an “A Zone” on the Flood Insurance Rate Map of the Town shall be according to the best data available as provided by the Department of Natural Resources.
- (4) The regulatory flood elevations for the SFHAS of those parts of unincorporated Spencer County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town shall be as delineated on the 100-year flood profiles in the Flood insurance Study of Spencer County prepared by the Federal Emergency Management Agency and dated November, 1977, and the corresponding FIRM dated May 1, 1978 prepared by the Federal Emergency Management Agency, along with any subsequent amendments or revisions which are hereby adopted by reference and declared to be a part of this Title.
- (5) If the SFHA is delineated as “AH Zone or AO Zone,” the elevation (or depth) will be delineated on the County Flood Insurance Rate Map. If the SFHA is delineated as “Zone A” on the County Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Department of Natural Resources. (Ord. 1998-unnumbered, S4.513, June 1, 1998)

10.06.045.514 Improvement Location Permit. No person, firm, corporation, or governmental body not exempted by state law shall commence any “development” in the SFHA without first obtaining an Improvement Location Permit from the Zoning Administrator. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed “development” does not meet the requirements of this section.

- (1) The application for an Improvement Location Permit shall be accompanied by the following:

- A. A description of the proposed development.
 - B. Location of the proposed development - sufficient to accurately locate property and structure in relation to existing roads and streams.
 - C. A legal description of the property site.
 - D. A site development plan showing existing and proposed development locations and existing and proposed land grades.
 - E. Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included.
- (2) Upon receipt of an application for an Improvement Location Permit, the Zoning Administrator shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined.

A. Location of Floodway

If the site is in an identified floodway the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

Under the provisions of IC 14-28-1 a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the building.

No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in sections 10.06.045.515 and 10.06.045.516 of this Chapter have been met. The Improvement Location Permit

cannot be less restrictive than the permit issued by the Natural Resources Commission.

B. Location in Floodway Fringe

If the site is located in an identified floodway fringe, then the Zoning Administrator may issue the local Improvement Location Permit provided the provisions contained in sections 10.06.045.515 and 10.06.045.516 of this section have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade (FPG).

C. Location in Floodplain - Undetermined Limits

If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is greater than one (1) square mile, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment. No action shall be taken by the Zoning Administrator until either a permit for construction in the floodway or a floodplain analysis and regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Zoning Administrator has received the proper permit or floodplain analysis and regulatory assessment approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in sections 10.06.045.515 and 10.06.045.516 of this section have been met.

D. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one (1) square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100 year elevation for the site.

Upon receipt, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in sections 10.06.045.515 and 10.06.045.516 of this

ordinance have been met. (Ord. 1998-unnumbered, S4.514, June 1, 1998)

10.06.045.515 Preventing increased damages. No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

- (1) Within the floodway identified on the Flood Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis as provided in section 10.06.045.514 (1) (d), the following standards shall apply:
 - A. No development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and
 - B. For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency review the regulatory flood data.
- (2) Within all SFHAS identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply:

The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one (1) foot and will not increase flood damages or potential flood damages.

- (3) Public Health Standards in all SFHAs:
 - A. Noxious Materials and Related Items

No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade (FPG), unless such materials are stored in a floodproof storage tank or building constructed according to the requirements of subsection 10.06.045.516 of this section.
 - B. Sanitary Sewer/Waste Disposal

New and replacement sanitary sewer lines and onsite waste disposal systems may be permitted providing all manholes or other above ground openings are located above FPG, or

those which are located below the FPG are watertight. (Ord. 1998-unnumbered, S4.515, June 1, 1998)

10.06.045.516 Protecting Buildings. In addition to the damage prevention requirements of section 10.06.045.515, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

(1) This building protection requirement applies to the following situations:

A. New Construction

Construction or placement of any new building having a floor area greater than 400 square feet;

B. Structural Alterations

Structural alterations made to an existing (previously unaltered) building, the cost of which equals or exceeds fifty (50) percent of the value of the pre-altered building (excluding the value of the land); and any previously altered building;

C. Repairs or Reconstruction

Reconstruction or repairs made to a damaged building that are valued at or more than fifty (50) percent of the market value of the building (excluding the value of the land) before damage occurred;

D. Manufactured Homes

Installing a manufactured home on a new site or a new manufactured home on an existing site. This section does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

E. Travel Trailer/Recreational Vehicle

Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(2) This building protection requirement may be met by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in section 10.06.045.512 of this section.

A. Construction on Land Fill - Permanent Buildings

A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:

1. The fill shall be placed in layers no greater than one (1) foot deep before compacting to ninety-five (95) percent of a maximum density obtainable with the Standard Proctor Test method .
2. The fill should extend at least ten (10) feet beyond the foundation of the building before sloping below the FPG.
3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.
4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
5. The top of the lowest floor, including basements, (see definition of lowest floor in section 10.06.045.511 Definitions) shall be at or above the FPG.

B. Elevation of Permanent Buildings

A residential or nonresidential building may be elevated in accordance with the following:

1. The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
 - (a) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two (2) openings (in addition to doorways and windows) having a total area of one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
 - (b) Any enclosure below the elevated floor is used for storage of vehicles and building access.

2. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice, and floating debris.
3. All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

C. Elevation of Manufactured Homes

Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
 - (a) outside a manufactured home park or subdivision;
 - (b) in a new manufactured home park or subdivision;
 - (c) in an expansion to an existing manufactured home park or subdivision; or
 - (d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
2. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

D. Recreational Vehicle Placement

Recreational vehicles placed on a site shall either:

1. be on the site for less than 180 consecutive days;
2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
3. meet the requirements for “manufactured homes” in paragraph C. above.

E. Floodproofing Permanent Non-Residential Buildings

A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

1. A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity. (Ord. 1998-unnumbered, S4.516, June 1, 1998)

10.06.045.517 Other Development Requirements.

- (1) The Zoning Administrator, shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area. If the Zoning Administrator finds the subdivision to be so located, the Zoning Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment.

The Zoning Administrator shall require appropriate changes and modifications in order to assure that:

- A. it is consistent with the need to minimize flood damages;
 - B. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - C. adequate drainage is provided so as to reduce exposure to flood hazards;
 - D. on-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- (2) Developers shall record the 100 year flood elevation on all subdivision plats containing lands (identified elsewhere by this ordinance) within a flood hazard area prior to submitting the plats for approval by the Plan Commission.
- (3) All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed and approved by the appropriate community emergency management authorities. (Ord. 1998-unnumbered, S4.517, June 1, 1998)

10.06.045.518 Variances.

- (1) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this section provided the applicant demonstrates that:
- A. There exists a good and sufficient cause for the requested variance;
 - B. The strict application of the terms of this section will constitute an exceptional hardship to the applicant, and
 - C. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) The Board of Zoning Appeals may issue a variance to the terms and provisions of this section subject to the following standards and conditions:

- A. No variance or exception for a residential use within a floodway subject to section 10.06.045.515(1) or (2) may be granted.
- B. Any variance or exception granted in a floodway subject to section 10.06.045.515(1) or (2) will require a permit from Natural Resources.
- C. Variances or exceptions to the Building Protection Standards of section 10.06.045.516 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- D. Variances or exceptions may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
- E. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
- F. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums. (Ord. 1998-unnumbered, S4.518, June 1, 1998)

10.06.045.519 Disclaimer of Liability. The degree of flood protection required by this Title is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this article does not create any liability on the part of the community, Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this Title or any administrative decision made lawfully thereunder. (Ord. 1998-unnumbered, S4.519, June 1, 1998)

10.06.045.520 Violations. Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this Title. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of section 10.060.020.110 of this Chapter.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.

- (2) The Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 1998-unnumbered, S4.520, June 1, 1998)

10.06.045.521 Abrogation and Greater Restrictions. This Title repeals and replaces other ordinances adopted by the Town Council to fulfill the requirements of the National Flood Insurance Program. However, this Title does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this section repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this section and other ordinances easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the Town Council shall assure that all National Flood Insurance Program regulations and laws (312 IAC 10, IC 14-28-1 and IC 14-28-3) are met. (Ord. 1998-unnumbered, S4.521, June 1, 1998)

10.06.045.522 Separability. The provisions and subsections of this section shall be deemed separable and the invalidity of any portion of this section shall not affect the validity of the remainder. (Ord. 1998-unnumbered, S4.522, June 1, 1998)

10.06.050 GENERAL PROVISIONS

10.06.050.010	Conformance and permits required
10.06.050.020	Mobile homes
10.06.050.040	Temporary uses: buildings, structures, transportable dwellings and recreational vehicles
10.06.050.050	Mineral extraction
10.06.050.060	Permitted accessory uses
10.06.050.061	Requirements for accessory buildings in residential zones
10.06.050.070	Off-street parking and loading provisions
10.06.050.071	Off-street parking
10.06.050.072	Area required
10.06.050.073	Distance measurements
10.06.050.074	Mixed uses
10.06.050.075	Collective parking facilities
10.06.050.076	Off-street loading
10.06.050.077	Areas used to park, store or service motor vehicles
10.06.050.078	Permanency of spaces provided
10.06.050.080	Advertising devices
10.06.050.081	Improvement location permit required
10.06.050.082	Exceptions to Section 10.06.050.081
10.06.050.083	Size and location
10.06.050.090	General area provisions
10.06.050.091	Reduction of lot area
10.06.050.092	Recorded lots less than minimum area
10.06.050.093	Yards apply to only one building
10.06.050.094	Only one main building on a lot
10.06.050.095	Corner setback
10.06.050.096	Front yards on a through lot
10.06.050.100	General height provision
10.06.050.110	Contingent uses (all districts)

10.06.050.010 Conformance and permits required. No building or structure shall be erected, reconstructed, enlarged or moved for any use other than that which is permitted in the zone in which such building, structure or land is located, nor shall any building, structure or land be used for any other use than is permitted in the zone in which it is located. (Ord. 1983-unnumbered, S5.010, Sept. 12, 1983)

10.06.050.020 Mobile homes. A permit to locate a mobile home in an approved use zone may be issued as a special exception only if:

- (1) the dwelling meets all the specified dwelling requirements established for the use zone in which the dwelling is to be located;
or

- (2) the dwelling is to be located in a residential home park and meets all specified dwelling requirements established for a residential home park. (As amended by Ordinance 1997-7-3, July 28, 1997) (Ord. 1983-unnumbered, S5.020, Sept. 12, 1983)

10.06.050.040 Temporary uses: buildings, structures, transportable dwellings, and recreational vehicles. The following provisions pertain to temporary uses: (As amended by Ordinance 1997-7-3, July 28, 1997)

- (1) No temporary building or temporary structure shall be erected, reconstructed, enlarged, or moved onto any lot, plot, or tract of land other than for agricultural purposes or as a temporary construction field office unless it conforms with this ordinance.
- (2) A temporary dwelling may be moved on to a lot, plot, or tract of land and be used as a temporary residence for a period of one year during the construction time of a permanent residence on the same lot, plot or tract. Prior to the moving of any temporary dwelling onto any lot, plot, or tract, for said purpose, the owner shall obtain a special exception permit from the Board of Zoning Appeals; said permit shall run for a period of up to one year. Upon expiration, the permit may be extended for up to one additional year by the zoning administrator upon adequate showing by the owner that the construction of the residence has not progressed to a livable stage due to conditions beyond his control. Only one such extension shall be allowed for said permit; after the final expiration of said permit, the temporary dwelling shall be vacated and move within thirty (30) day of the expiration date. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (3) The temporary residence shall comply with all county and state health requirements which would be imposed upon a permanent residence on the same lot, plot, or tract.
- (4) A temporary dwelling may be moved onto a lot, plot, or tract of land and be used as a temporary residence for a period of time as determined by the board of zoning appeals; said determination shall be made upon the basis of the information supplied by the applicant. Prior to the moving of any temporary dwelling onto any lot, plot, or tract for said purpose, the owner or his agent shall obtain a special exception permit from the board of zoning appeals; said permit shall run only for the time determined by the board. Upon the expiration, the permit may be renewed only by the board of zoning appeals. The application for renewal shall be handled in the same manner as a new application. (As amended by Ordinance 1997-7-3, July 28, 1997)
- (5) A recreational vehicle is permitted so long as the vehicle:

- A. is not being used for dwelling purposes more than 22 consecutive days and 66 total days during a calendar year; and
- (b) is licensed and ready for highway use. (As added by Ordinance 1997-7-3, July 28, 1997) (Ord. 1983, unnumbered, S5.040, Sept. 12, 1983)

10.06.050.050 Mineral Extraction. No improvement location permit for a mineral extraction use shall be issued until the applicant has presented proof that the required valid permit or permits for such use has been obtained from the Indiana Department of Natural Resources.

In addition to complying with any other conditions or applicable provisions of this ordinance, the applicants must also present to the board of zoning appeals considering the special exception requirements, a survey of geological conditions in the area to be mined or excavated. Said survey shall include a professional evaluation of the probable effect of mining, excavating and blasting with explosives on nearby properties and any other information which may assist in evaluating the impact of future mining or excavation of the property upon the health and safety of neighboring properties of the community at large. If a survey of this same general description is made pursuant to any other state or federal law or regulation, it may be used to satisfy this requirement. (Ord. 1983-unnumbered, S5.050, Sept. 12, 1983)

10.06.050.060 Permitted accessory uses. Accessory uses such as the following are permitted in all zones, and may be installed in any required yard.

- Birdbaths and bird houses
- Curbs
- Driveways
- Fences and hedges
- Lamp posts
- Mail boxes
- Name plates
- Parking spaces
- Private garages, studios and tool sheds are permitted in all but the front yard
- Utility installations for local service (such as poles, lines, hydrants, and telephone booths)
- Retaining walls
- Trees, shrubs, plants, and flowers
- Walks (Ord. 1983-unnumbered, S5.060, Sept. 12, 1983)

10.06.050.061 Requirements for accessory buildings in residential zones. If an interior lot abuts a corner lot or alley separating them and the front yards of the two lots are perpendicular to each other, an accessory building on the rear lot line of the corner lot may be located no closer to the street abutting

the interior lot than the principal building on the interior lot, but no closer than five (5) feet. (Ord. 1983-unnumbered, S5.061, Sept. 12, 1983)

10.06.050.070 Off-street parking and loading provisions. Off-street parking and loading areas shall be regulated as provided in sections 10.06.050.071-10.06.050.078. (Ord. 1983-unnumbered, S5.070, Sept. 12, 1983)

10.06.050.071 Off-street parking. The owner of the property on which a building is hereafter erected, enlarged or altered shall provide and satisfactorily maintain off-street parking areas or facilities as required for the said use in the following provisions:

- (1) Dwellings shall have at least one parking space for each dwelling or sleeping unit in the building or buildings.
- (2) For any general auditorium, gymnasium, church, funeral home, or theatre, high school or college, or university auditorium or stadium or other similar place of assembly, there shall be provided at least one (1) parking space for each six (6) seats provided for its patrons, based on the maximum seating capacity, including fixed and moveable seats. For any church, there shall be allowed the use of joint parking facilities in connection with any buildings or use not normally open, used, or operated during the principal operating hours of a church providing a property drawn legal instrument is executed by the parties concerned for the joint use of such off-street parking facilities. Said instrument, duly approved as to form by the town attorney, shall be filed with the application for a zoning permit.
- (3) For any hotel, apartment hotel, motel, or any other similar use or establishment, there shall be provided at least one parking space for each single or double occupancy sleeping room, in addition to spaces reserved for management, employees or temporary parking.
- (4) For any dancing, exhibition, labor temple, lodge hall, skating rink or other assembly hall without fixed seats, there shall be provided not less than one (1) parking space for each 120 square feet of gross floor area thereof.
- (5) For any bank, clinic, office building, professional office, welfare institution or any other similar use of establishment, there shall be provided not less than one (1) parking space for each 400 square feet of gross floor area thereof.
- (6) For any medical clinic or any other similar use, there shall be provided at least three (3) parking spaces for each doctor or dentist using the clinic, plus one (1) space for each two (2) regular employees including nurses.

- (7) For any hospital, sanitarium, convalescent home or other similar use or establishment, there shall be provided not less than one parking space for each three (3) beds or any portion thereof.
- (8) For any eating or drinking establishment or any other similar use where customers are seated and served within a building, there shall be provided at least one (1) parking space for each two hundred (200) square feet of gross floor area thereof.
- (9) For any eating or drinking establishment or any other similar use where customers are served outside of a building, there shall be provided at least one (1) parking space for each fifty (50) square feet of gross floor area thereof, provided, however, that there shall not be less than six (6) parking spaces for each such establishment.
- (10) For any retail store, except a food market, there shall be provided not less than one (1) parking space for each three hundred (300) square feet of gross floor area thereof.
- (11) For any food market establishment or any similar use with a gross floor area of less than 2,500 square feet, there shall be provided not less than one (1) parking space for each 250 square feet of gross floor area thereof. For each gross floor area in excess of 2,500 square feet, there shall be one (1) parking space for each one hundred (100) square feet of gross floor area thereof in excess of 2,500 square feet.
- (12) For any manufacturing, processing, wholesaling, storage, or any other industrial use or commercial establishment not specifically set out in this section, there shall be provided at least one (1) parking space for each two (2) employees, plus sufficient spaces to park all company-owned or leased motor vehicles, semi-trailers and trailers.
- (13) For any launderette, laundromat, self-service laundry, washateria or any other similar use or establishment under a different name, there shall be provided one (1) parking space for each two (2) washing machines or portion thereof.
- (14) For any bowling center, there shall be provided four (4) parking spaces for each bowling alley thereof.
- (15) For any camp ground, there shall be provided not less than one (1) parking space on the same parcel of land for each individual house trailer, tent, moveable or temporary dwelling contained therein.
- (16) For any commercial or business office having a gross floor area in excess of ten thousand (10,000) square feet and occupied solely by the employees of one person, there shall be provided at least one (1) parking space for each eight hundred (800) square feet of gross floor area thereof. (Ord. 1983-unnumbered, S5.071, Sept. 12, 1983)

10.06.050.072 Area required. Each automobile parking space shall be not less than 180 square feet in area. (Ord. 1983-unnumbered, S5.072, Sept. 12, 1983)

10.06.050.073 Distance Measurements. The distance to any parking space as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building said parking area or facility is to serve. (Ord. 1983-unnumbered, S5.073, Sept. 12, 1983)

10.06.050.074 Mixed uses. In the case of any use not listed herein, the number of parking spaces required for such use shall be the same as for a similar use which is listed. In the case of mixed uses in the same building or structure, the total requirement for off-street parking facilities shall be the sum of the requirements of the various uses computed separately from the items as listed. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified for collective use. (Ord. 1983-unnumbered, S5.074, Sept. 12, 1983)

10.06.050.075 Collective parking facilities. Nothing in sections 10.06.050.070 - 10.06.050.078 shall be construed to prevent collective use of any off-street parking facility for two or more buildings or uses. However, the total number of off-street parking spaces shall not be less than the sum of requirements for the various individual uses computed separately in accordance with the items set out in the above said section.

All parking spaces provided pursuant to the provisions for off-street parking shall normally be on the same lot with the building; however, the board may permit the parking spaces to be on any lot within three hundred (300) feet of the building except for the requirements of section 10.06.050.071(15). If the board determines that it is impractical to provide parking on the same lot with the building, the requirements set forth in subsections, (3), (5), (6), (7), (8) and (10) in section 10.06.050.071 may be waived by the board. Said requirements may be waived by the board: 1) in the case of a building erected or altered as a result of destruction by fire or act of God, or 2) whenever the board determines that more than seventy-five (75) percent of the privately owned lands within three hundred (300) feet of the building to be erected, enlarged or altered, are improved buildings that are regularly occupied and used. (Ord. 1983-unnumbered, S5.075, Sept. 12, 1983)

10.06.050.076 Off-street loading. On the same premises with every building, structure or part thereof hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, mortuary, laundry, dry cleaning or other uses and involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained adequate space for standing, loading and unloading. This requirement is to avoid undue interference with public use of the street or alley.

Such space, unless otherwise adequately provided for, shall include a twelve (12) foot by thirty-five (35) foot loading space with fourteen (14) foot height clearance

for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor area used for above mentioned purposes, or for every 20,000 square feet of land used for the above mentioned purposes. These requirements may upon appeal, be increased, modified, or waived by the board where the conditions or circumstances justify such action. (Ord. 1983-unnumbered, S5.076, Sept. 12, 1983)

10.06.050.077 Areas used to park, store or service motor vehicles.

Every parcel of land which, after the effective date of this ordinance, is changed to an area to park, store or service motor vehicles such as a public parking area, automobile or trailer sales area, filling station or garage shall be developed as follows:

- (1) Such area, where subject to wheeled traffic, shall be improved with bituminous, concrete, crushed stone with an adequate base or other equivalent surfacing and shall have appropriate bumper guards where needed.
- (2) Where such area adjoins a lot in a RS zone or a residential development, a solid wall, compact evergreen screen or uniformly painted board fence having a height of not less than four (4) feet shall be erected and maintained between such area and the property in residential areas and zones. Such enclosures shall be at least five (5) feet from the side of a lot in an R zone or residential development. All required front and side yards shall be properly maintained as such. Where such area is across the street from an R zone or a residential development, a compact evergreen screen having a height of not less than four (4) feet shall be erected and maintained between such area and property in the same zone of development and all required front yards shall be maintained as such.
- (3) Any light used to illuminate said parking area shall be arranged as to reflect the light away from the adjoining premises in a RS zone or residential development. (Ord. 1983-unnumbered, S5.077, Sept. 12, 1983)

10.06.050.078 Permanency of spaces provided. Any parking or loading space established prior to the effective date of this ordinance and which is used or intended to be used in connection with any main building, structure or use, or any spaces designed and intended to comply with the requirements of this ordinance for any such main building or structure erected after such effective date, shall hereafter be maintained so long as said building or structure remains, unless the owner provides and maintains in another location an equivalent number of required spaces in conformance with the provisions of this ordinance. (Ord. 1983-unnumbered, S5.078, Sept. 12, 1983)

10.06.050.080 Advertising devices. The following provisions in sections 10.06.050.081 - 10.06.050.083 pertain to advertising devices. (Ord. 1983-unnumbered, S5.080, Sept. 12, 1983)

10.06.050.081 Improvement location permit required. After the enactment of this ordinance it shall be deemed unlawful to erect, place, attach or structurally alter any advertising device in the town of Grandview, Indiana unless and until an improvement location permit has been issued. Upon the issuance of said permit the advertising company or its agent may erect, place, attach or structurally alter said advertising device only if the device shall be in conformity with sections 10.06.050.082 and 10.06.050.083. (Ord. 1983-unnumbered, S5.081, Sept. 12, 1983)

10.06.050.082 Exception to Section 10.06.050.081. The following devices are exceptions to section 10.06.050.081, provided said devices are in conformity with all other provisions of this ordinance:

- (1) A name plate or sign not exceeding one (1) square foot, house or address notations;
- (2) A device pertaining to the sale of the property on which it is located and not exceeding twelve (12) square feet;
- (3) A device pertaining to a home occupation or sale of farm produce provided that:
 - A. it does not exceed twelve (12) square feet;
 - B. it is limited to the advertising of items crafted or grown on the premises; and
 - C. It is located not more than five hundred (500) feet from the actual premises on which the product is being sold. (Ord. 1983-unnumbered, S5.082, Sept. 12, 1983)

10.06.050.083 Size and location. Yard restrictions set out in other sections of this ordinance do not apply to advertising devices except where direct reference is made to said devices; the restrictions as set forth in sections 10.06.050.080 - 10.06.050.083 shall apply in all other cases. The size and location of all advertising devices shall comply with the provisions of said sections.

Regulations pertaining to advertising devices for various uses and zones are as follows:

- (1) Churches, Schools and Institutions. All churches, public or parochial, primary or secondary schools, and all institutions shall be limited to one freestanding advertising device not to exceed twenty-four (24) square feet. In the event the church, school or institution faces more than one street, one advertising device per street may be permitted on the building's site. All such devices shall be located not less than fifteen (15) feet behind the front or side lot line, except

where affixed to the wall of the building and shall not extend over the sidewalk.

(2) AG and RS zones. The following regulations pertain to advertising devices permitted in the AG and RS zones:

- A. Name plate or sign: One per dwelling unit, not exceeding one (1) square foot in area.
- B. Home occupation: Unlighted, not to exceed two (2) square feet in area. The required front setback shall be not less than fifteen (15) feet from the front or side property lines.
- C. Temporary - subdivisions: One sign, not to exceed one hundred twenty-eight (128) square feet in area and no single dimension to exceed sixteen (16) feet, advertising the sale of lots within the subdivision and located within the subdivision and located thereon, providing that not more than one (1) such sign be located at each major approach to the subdivision. The setback from the front or side lot line shall be equal to one half (1/2) the required front building setback as specified for the zone in which it is situated. Said sign shall be removed by the developer or his agent, upon the completion or the sale of 90% of the lots in the subdivision.
- D. Permanent: One identification device not exceeding twenty (20) square feet in area for multiple dwellings, provided that such device shall be located not less than fifteen (15) feet from the front and/or side property lines, except where it is affixed to the wall of the building and does not extend over the sidewalk.
- E. Other devices prohibited: All advertising devices, except as mentioned in subsections (1) and (2) of this section and official signs of government agencies, are prohibited in the RS zone.

For additional regulations in the AG zone, see subsection (4) of this section.

(3) GB and IN zones. In any GB or IN zone, an advertising device may be permitted provided that:

- A. when said device is located within seventy-five (75) feet of an R zone or residentially used area boundary it shall:
 - 1. be affixed to or be a part of a building;

2. not extend over any street line nor project above the roof line;
 3. shall pertain only to a use conducted within the building; and
 4. the size is limited to three (3) square feet of area to each lineal front foot of the building displaying such device.
- B. No free-standing device shall have an advertising area exceeding three hundred twenty (320) square feet in area.
 - C. No flashing advertising device shall be located within three hundred (300) feet of any residentially zoned or developed area.
 - D. Yard restrictions shall be as required in the zone in which the device is located.
- (4) AG or FP zone. In any AG or FP zone, the advertising devices shall conform with the following provisions:
- A. Advertising devices pertaining to a home occupation or sale of farm produce shall:
 1. not exceed twelve (12) square feet;
 2. be limited to advertising items crafted or grown on the premises; and
 3. shall not be located more than five hundred (500) feet from the actual premises on which the product is being sold.
 - B. Free-standing, nonaccessory advertising device, that is, any device advertising a business, use, activity, product, or merchandise not sold, handled or occurring on the property on which the device is located, shall be subject to the following:
 1. Such advertising device shall be in conformity with the applicable front yard requirements as specified in Table 2 or Table 3.
 2. Said device shall be a minimum of three hundred (300) feet from a line project perpendicular across the highway from a dwelling or land platted, divided, or

zoned for residential use, school, church, park, or place of public assembly.

3. Said device shall be a minimum of four hundred (400) feet from any dwelling or land platted, divided, or zoned for residential use, school, church, park, or place of public assembly.
4. Said device shall be a minimum of two hundred (200) feet from a railroad or a cross road intersection, a "T" road or highway entrance, a bridge or a stretch of highway that is specified as being hazardous by the state or county, a turn in the highway or an entering lane or road, and the curve of a highway.

(5) General provisions for all advertising devices. The following are general provisions pertaining to all advertising devices:

- A. All devices, either of a temporary or permanent nature, shall be constructed or maintained in a presentable manner for the life of the device.
- B. Any nonconforming device that is or becomes in a rundown or objectional condition shall be removed from the premises by the owner of said device. Said condition shall exist when the device is determined to be in excess of thirty (30) percent destroyed by acts of God or man. Said determination shall be made by the Town Council and the plan commission. (As amended by Ordinance 1997-7-3, July 28, 1997)
- C. Any nonconforming advertising device not attached to a building, lawfully existing upon the effective date of this ordinance shall be discontinued on or before ten (10) years after the effective date of this ordinance unless a discontinuance date has been established by a prior zoning ordinance in which case such prior date of discontinuance shall apply. If in the meantime it is determined that said device has been made conforming with the provisions governing advertising devices, said device may be continued.
- D. Advertising devices may contain not more than one sign per facing, nor more than two sides per said device.
- E. All new devices (except those referred to in following subsection H. in excess of twenty (20) square feet and not an integral part of another structure shall require an improvement location permit.

- F. Any device that is deemed a traffic hazard for reason of obstructing the view of an approaching road or intersection, railroad, school playground or park, pedestrian crosswalk or any other situation that may endanger health and welfare of any pedestrian or occupant of any vehicle shall be prohibited.
- G. The placement of signs of any kind and character upon any structure, pole, or right-of-ways within the town limits of Grandview is prohibited. Such signs will be removed and placed behind the Town Hall for three days and then discarded. Those now in place obstructing the view of traffic will be removed. (Ord. Sept. 14, 1998)
- H. Said device shall be a minimum of one thousand three hundred twenty (1,320) feet from another advertising device located on the same side of a two lane state, federal or county highway. Where said device is located in a commercial zone, there shall be a separation requirement of two hundred (200) feet where located in an industrial zone, there shall be a separation requirement of one hundred (100) feet.

For the purposes of this sub-paragraph a series of 1 to 6 signs, each having an area of no greater than six (6) square feet and spaced at least one hundred (100) feet apart, which are designed to be read in sequence to convey a single message, shall be considered as one advertising device.

- I. The following signs shall be excluded from the provisions of this ordinance:
 - 1. All signs necessary for convenience and safety established by the federal, state and/or county highway departments.
 - 2. All signs giving a notice of a change of zoning as established by the plan commission.
 - 3. Those devices of a temporary nature, advertising or giving directions to an official, special event, provided that all such devices shall be removed within twenty-four (24) hours after they become no longer applicable. (Ord. adopted Sept. 14, 1998) (Ord. 1983-unnnumbered, S5.083, Sept. 12, 1983)

10.06.050.090 General area provisions. Except as hereinafter provided, no building or structure shall be erected on a lot unless such building or combined existing structure plus additions, conforms with the area regulations of the zone in which it is located. (Ord. 1983-unnnumbered, S5.090, Sept. 12, 1983)

10.06.050.091 Reduction of lot area. No lot area shall be so reduced, diminished and maintained that the yards, other open space, or total lot area shall be smaller than prescribed by this ordinance, nor shall the density of population be increased in any manner except in conformity with the regulations herein established. (Ord. 1983-unnumbered, S5.091, Sept. 12, 1983)

10.06.050.092 Recorded lots less than minimum area. Lots of record at the time of the enactment of this ordinance which have less than the minimum area requirements for residential use may nevertheless be used for any use permitted therein, except that for dwellings, the lots must have a width of at least sixty (60) feet, and an area of at least 7,500 square feet. (Ord. 1983-unnumbered, S5.092, Sept. 12, 1983)

10.06.050.093 Yards apply to only one building. No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provision of this ordinance, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as one main residential building. (Ord. 1983-unnumbered, S5.093, Sept. 12, 1983)

10.06.050.094 Only one main building on a lot. Every building hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one residential building and its accessory buildings on one lot. However, a farm tenant dwelling may be erected on the same tract as the main farm dwelling. Row dwellings or group housing may be considered as one main residential building. (Ord. 1983-unnumbered, S5.094, Sept. 12, 1983)

10.06.050.095 Corner setback. At street intersections of an angle less than sixty (60) degrees, shrubs or structures over two (2) feet high may not be placed between the intersections of the street lines and ten (10) feet from the building line. (Ord. 1983-unnumbered, S5.095, Sept. 12, 1983)

10.06.050.096 Front yards on a through lot. At each end of a through lot there shall be a front yard of the depth required by this ordinance for the zone in which each street frontage is located, and one of such front yards may serve as a required rear yard. (Ord. 1983-unnumbered, S5.096, Sept. 12, 1983)

10.06.050.100 General height provision. Except as hereinafter provided, no building or structure shall be erected, enlarged, or reconstructed to exceed the height limit established for the zone wherein such building or structure is located. (Ord. 1983-unnumbered, S5.100, Sept. 12, 1983)

10.06.050.110 Contingent uses (all districts). The contingent uses hereinafter set forth shall be permitted by the board, only after public hearing, in any district where such uses are essential or desirable to the public convenience or welfare. No permit for a contingent use shall be granted if the board shall find that such use is in conflict with any plan duly adopted by ordinance, or if the board determines the proposed use will be detrimental to the surrounding area.

In the exercise of its approval, the board may impose such additional conditions regarding the location, character, and other features of the proposed building, structure, or use as may be reasonably required to further the purposes of this ordinance.

- (1) Such permitted contingent uses are identified as follows:
 - A. An airport or similarly designed area for the landing and taking off of aircraft provided that:
 1. The proposed location has been approved by the commission as to compatibility with the master plan for the physical development of the town of Grandview.
 2. The area and the arrangement of all improvements shall be sufficient for the class of airport proposed to meet the requirements of the Federal Aviation Agency, the Aeronautic Administration of Indiana or any other rightfully involved governmental agency
 3. Any proposed buildings, hangars, or other structures shall be at least one hundred (100) feet from any street or lot line.
 4. No application shall be considered, unless it is accompanied by a plan, drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of owners of abutting properties; proposed layout of runways, landing strips or areas, taxi-strips, aprons, roads, parking areas, hangars, buildings, and other structures, and facilities; the location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zones and less than five hundred (500) feet distance from the boundary lines of the airport; other pertinent data, such as topography and grading plan, drainage, water, and sewerage, et cetera.
 - B. Cemetery
 - C. Governmental installation not otherwise permitted.
 - D. A hospital, nursing home, sanitarium or asylum which does not treat mental, drug or alcoholic patients.
 - E. Medical health center or clinic, with parking provided as specified by this ordinance.

- F. Public utility facilities such as: radio and television transmitter stations and towers; petroleum and natural gas transmission lines, pumping stations and facilities; electric substations and telephone exchanges where not otherwise permitted by this ordinance; railroad lines; classification yards and terminals; and other similar uses of a public utility or public service nature; including structures and appurtenances for their enclosure, maintenance and operation.
 - G. Educational institution, including churches.
 - H. Fairground.
 - I. Transient amusement enterprise, medicine show or circus, the chief activity of which is carried on for gain or profit.
 - J. Private school.
 - K. Golf course.
- (2) Authorization for Continuance: All contingent uses which existed upon the effective date of this ordinance shall be regarded as conforming uses and may be continued, except that major changes in layout, expansions or extension to such uses shall be subject to board review and approval as required for contingent use. (Ord. 1983-unnumbered, S5.110, Sept. 12, 1983)

10.06.060 EXCEPTIONS AND MODIFICATIONS

10.06.060.010	Special exceptions - specified zones
10.06.060.011	Permitted special exceptions
10.06.060.012	Considerations for any special exception
10.06.060.013	Authorization for continuance
10.06.060.020	Height
10.06.060.021	Three (3) story buildings in two (2) story zones
10.06.060.022	Through lots (one hundred fifty (150) feet or less in depth)
10.06.060.023	Through lots (more than one hundred fifty (150) feet in depth)
10.06.060.024	Structures permitted above height limit
10.06.060.030	Area and yards
10.06.060.031	Yard regulations modified
10.06.060.032	Front yard between projecting buildings
10.06.060.033	Front yard adjoining projecting building
10.06.060.034	Side yards waived
10.06.060.035	Front and side yards waived
10.06.060.036	Rear yard accessory building
10.06.060.037	Through lot may be considered as two (2) lots
10.06.060.038	Projection into yards

10.06.060.010 Special exception - specified zones. The special exceptions hereinafter set forth shall be permitted by the board, only after public hearing, in the zones indicated in section 10.06.060.011, where such uses are essential or desirable to the public convenience or welfare. No permit for a special exception shall be granted if the board shall find that such use is in conflict with any plan duly adopted by ordinance, or if the board shall find that such use is in conflict with any plan duly adopted by ordinance, or if the board determines the proposed use will be detrimental to the surrounding area. In the exercise of its approval the board may impose such additional conditions regarding the location, character, and other features of the proposed building, structure or use as may be reasonably required to further the purposes of this ordinance. (Ord. 1983-unnumbered, S6.010, Sept. 12, 1983)

10.06.060.011 Permitted special exceptions. The board may permit the following special exceptions:

- (1) Animal hospitals, veterinary clinics, animal boarding places and kennels. In any AG zone, a veterinary clinic, animal hospital, animal boarding place, or kennel provided that no part of any building, pen, or run shall be within three hundred (300) feet of any adjoining residence.
- (2) Antique shop. In any AG zone, an antique shop, provided that any outdoor display of articles for sale shall be at least fifty (50) feet from any street or property line.

- (3) Boarding and/or rooming house. In any AG and RS zone, the temporary use for a period of not more than three years, subject to renewal of a single-family dwelling for a boarding and/or rooming house upon a finding by the board that such rooming house will not constitute a nuisance because of sidewalk or street traffic, noise or type of physical activity, and that such use will not tend to affect adversely the use and development of adjoining properties or the immediate neighborhood.
- (4) Child care home. In any AG and RS zone, a child care home or nursery school upon a finding by the board that said use will not constitute a nuisance because of traffic, number of children being cared for, noise or type of physical activity.
- (5) Dumps, sanitary landfills, and incinerators. In any AG or IN zone a dump, sanitary landfill and/or incinerator, upon a finding that said use will not constitute a nuisance because of traffic, noise, odors, smoke, or physical activity, provided that the area, and setback requirements as specified by the boards are complied with, provided that it meets the approval of the county board of health and the Indiana Department of Natural Resources.
- (6) Hospital, nursing home, sanitarium, asylum or other institution which cares for mental, drug, or alcoholic patients or is a penal or correctional institution, subject to the conditions that:
 - A. No part of any building in which inmates or patients are housed is, or is proposed to be, located less than three hundred (300) feet from any bounding lot or street line.
 - B. Adequate off-street parking space is provided.
 - C. Protective man-proof fencing is provided where necessary.
- (7) Limited office uses in residential zones as transitional use. In any RS zone a dwelling on any lot or parcel of land immediately abutting along its side lot line or lying directly opposite across a street from any commercial or industrial district, may be used for limited office purposes provided that such use is in accordance with the following requirements:
 - A. Such uses shall be confined to the offices of doctors, dentists, lawyers, accountants, realtors, engineers, and similar professional persons.
 - B. Such uses shall not change or alter the exterior characteristic of the premises and no name plate or other sign exceeding two (2) square feet in area shall be displayed on the premises.

- C. Wherever possible, in the opinion of the board, all entrances, driveways, walks, parking areas, and signs incidental to such use shall be located on the side of the building nearest to the commercial or industrial zone.
- (8) Recreational Establishments and Uses. In any zone, buildings and structures for clubs, fraternal organizations, lodges, youth organizations, adult organizations, fishing ponds, picnic groves, and private recreational developments all conducted (1) for profit, or (2) not for profit.

For the purpose of this subsection, the above enumerated uses shall be hereby divided into three (3) specific classifications:

- A. Class A. Uses for youth organizations for camps, ball fields, swimming pools and water sports and similar uses which will at no time involve the use of firearms or other deadly weapons or instruments, or the use of engine powered racing vehicles or other noise producing devices.
 - B. Class B. Uses for clubs, fraternal organizations, lodges, adult organizations, fishing ponds, picnic groves, and private recreational developments which will not at any time involve the dispensing, sale, distribution or use of alcoholic beverages on the premises.
 - C. Uses for clubs, fraternal organizations, lodges, adult organizations, fishing ponds, picnic groves, and private recreational developments which may, at any time, involve the dispensing, sale, distribution or use of alcoholic beverages or the use of fire arms on the premises.
- (9) Special uses allied with agriculture. In any AG zone, a trucking operation primarily engaged in commercial transportation of agricultural products other than those raised on the premises, feed mills where grain is processed on a commercial basis, poultry dressing establishments and animal slaughter houses where animals other than those raised on the premises are processed on a wholesale basis, commercial welding shops, livestock sales or auction barns, commercial dairy for the processing, packaging and distribution of dairy products.

In any AG, FP and RS zone, a greenhouse and/or plant nursery provided retail sales are limited to the sale of plants and the commodities used in the direct care of plants.

- (10) Sand, gravel, or clay pits; rock or stone quarries; mining; removal of earth or top soil. In any zone, the use of vacant land for the removal

of natural material or deposits including, but not limited to, sand, gravel, clay, rock or stone, earth or top soil.

- (11) Sawmill. In any FP or AG zone, a sawmill, for a period of not more than three (3) years subject to renewal, for the cutting of timber grown in the immediate area, provided that no saw or other machinery shall be less than one hundred (100) feet from any lot or street line and that all power saws and machinery will be secured against tampering or locked when not in use.
- (12) Tourist home. In any AG and RS zone, a tourist home, provided that such use will meet all other governmental regulations.
- (13) Residential home parks. Residential home parks may be permitted by special exception in any AG or RS zone so long as the proposed residential home park site is at least six hundred (600) feet from existing residences. Certain special exceptions may be granted exclusively for the dwellings located in and the individual dwelling lots of a residential home park. These special exceptions are as listed but not limited to the following:
 - A. minimum dwelling lot area unit with public water and sewers may be 4,000 square feet;
 - B. minimum dwelling lot width with public water and sewers may be 40 feet;
 - C. zero lot line siting of dwellings may be permitted;
 - D. maximum dwelling lot coverage may be 50 percent;
 - E. minimum dwelling roof overhang requirements may be eliminated; and
 - F. the dwelling foundation may consist of jacks, skirting, and other temporary supports so long as it is engineered to accommodate vertical loads and has a lower surface placed below the frost line.

After a public hearing, the decision of the Board of Zoning Appeals shall determine whether or not the proposed site may be used for the purpose intended. (As amended by Ordinance 1997-7-3, July 28, 1997)

- (14) Campgrounds. Campgrounds may be permitted in any GB zone. They may also be permitted in the AG and RS-zones, only when the sites is at least six hundred (600) feet from existing residences. They may be permitted in the FP zone providing they receive approval prior to the board's approval. After a public hearing the decision of

the board of zoning appeals shall determine whether or not the proposed site may be used for the purpose intended. Any approval by the board of the development of a campground shall be contingent upon the condition the applicant will meet all requirements of the Indiana State Board Of Health regulations, Indiana Administrative Code 410-6-7. (Ord. 1983-unnumbered, S6.011, Sept. 12, 1983)

10.06.060.012 Considerations for any special exception. In considering a petition for any permitted special exception, the board shall give due regard to the following factors as they apply to the situation being considered:

- (1) The location and size of the use; the nature and intensity of the operations involved in or conducted in connection with it; its site layout, including parking space requirements; and its relation to streets giving access to it so that vehicular traffic to and from the use will not create undue hazard to the normal traffic of the vicinity, taking into account among other things, vehicular turning movement in relation to routes of traffic flow, relation to street intersections, sight distances, and relation to pedestrian traffic.
- (2) The nature, location, size and site layout of the use so that it will be harmonious to the district in which it is situated. (Ord. unnumbered, S6.012, Sept. 12, 1983)

10.06.060.013 Authorization for continuance. All special exceptions, except dumps, sanitary landfills and incinerators, which existed upon the effective date of this ordinance and which are located in a district which would permit such use in accordance with the provisions of this section, shall be regarded as conforming uses and may be continued, except that major changes in layout, subject to board review and approval as required for special exception.

All special exceptions hereafter authorized by the board in accordance with the provisions of this section, shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion or extension to such use shall be subject to board review and approval as required for special exception. (Ord. 1983-unnumbered, S6.013, Sept. 12, 1983)

10.06.060.020 Height. The following provisions are exceptions to the height requirements of each zone. (Ord. 1983-unnumbered, S6.020, Sept. 12, 1983)

10.06.060.021 Three (3) story buildings in two (2) story zones. In the zones limiting height to two (2) stories not to exceed twenty-five (25) feet, any permitted structure may be increased in height to three (3) stories not to exceed forty-five (45) feet, provided the required side yards are increased an additional one (1) foot for each three (3) feet such structure exceeds twenty-five (25) feet. (Ord. 1983-unnumbered, S6.021, Sept. 12, 1983)

10.06.060.022 Through lots (one hundred fifty (150) feet or less in depth). On through lots one hundred fifty (150) feet less in depth, the height of a building may be measured from the adjoining curb level on either street. (Ord. 1983-unnumbered, S6.022, Sept. 12, 1983)

10.06.060.023 Through lots (more than one hundred fifty (150) feet in depth). On through lots, more than one hundred fifty (150) feet in depth, the height regulations and basis of height measurements for the street permitting the greater height shall apply to a depth of not more than one hundred fifty (150) feet from that street. (Ord. 1983-unnumbered, S6.023, Sept. 12, 1983)

10.06.060.024 Structures permitted above height limit. Roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, television aerials, steeples, roof signs, flagpoles, chimneys, smokestacks, wireless containers, material hoppers, or similar structures may be erected above the height limits herein prescribed; but no roof structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential, business or industrial use. (Ord. 1983-unnumbered, S6.024, Sept. 12, 1983)

10.06.060.030 Area and yards. The following provisions in Sections 10.06.060.031 thru 10.06.060.038 are exceptions to the area and yards requirements of each zone. (Ord. 1983-unnumbered, S6.030, Sept. 12, 1983)

10.06.060.031 Yard regulations modified. Where the yard regulations cannot reasonably be complied with or their application determined on lots of peculiar shape, location or topography, such regulations may be modified or determined by the board, through the procedure prescribed for granting variances. (Ord. 1983-unnumbered, S6.031, Sept. 12, 1983)

10.06.060.032 Front yard between projecting buildings. Where a lot is situated between two (2) lots, each of which has a main building which projects beyond the ordinance established front yard line and was so maintained when this ordinance became effective, the front yard requirement on such lot may be the average of the front yards of said existing buildings, provided, however, the front yard of such lot shall be not less than ten (10) feet. (Ord. 1983-unnumbered, S6.032, Sept. 12, 1983)

10.06.060.033 Front Yard adjoining projecting buildings. Where a lot adjoining only one (1) lot having a main building which projects beyond the ordinance established front yard line and has been so maintained since this ordinance became effective, the front yard requirement on such lot may be the average of the front yard of the existing building and the established front yard line, provided, however, the front yard of such lot shall be not less than ten (10) feet. (Ord. 1983-unnumbered, S6.033, Sept. 12, 1983)

10.06.060.034 Side yards waived. For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as one (1)

building occupying one (1) lot: semi-detached dwellings, row dwellings, and group dwellings. (Ord. 1983-unnumbered, S6.034, Sept. 12, 1983)

10.06.060.035 Front and side yards waived. The front and side yards may be waived for dwellings, hotels, and lodging houses erected above the ground floor of a building when said ground floor is designed and used exclusively for business and/or industrial purposes. (Ord. 1983-unnumbered, S6.035, Sept. 12, 1983)

10.06.060.036 Rear yard accessory building. An accessory building, not exceeding twenty (20) feet in height may occupy not more than thirty (30) percent of the area of a required rear yard, providing it is not less than five (5) feet from any side or rear lot line. (Ord. 1983-unnumbered, S6.036, Sept. 12, 1983)

10.06.060.037 Through lot may be considered as two (2) lots. Where a through lot has a depth of two hundred (200) feet or more, and an area of 20,000 square feet or more, said lot may be assumed to be two (2) lots with the rear line of each approximately equidistant from the front lot lines, provided all area requirements are complied with. (Ord. 1983-unnumbered, S6.037, Sept. 12, 1983)

10.06.060.038 Projection into yards. The following provisions are exceptions to the projection into yards requirements in each zone:

- (1) **Porte Cochere.** A porte cochere may be permitted over a driveway in a side yard, provided such structure is not more than one (1) story in height and twenty (20) feet in length, and is entirely open on at least the front and rear side, except for the necessary supporting columns and customary architectural features provided, however, said porte cochere does not extend to within six (6) feet of a side lot line.
- (2) **Cornice, Sill or Chimney.** A cornice, eave bolt course, sill, canopy or other similar architectural feature (not including bay window or other vertical projection) may extend or project into a required front, side or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than three (3) feet.
- (3) **Fire Escape.** A fire escape may extend or project into any required front, side or rear yard not more than four (4) feet.
- (4) **Open Stairway and Balcony.** An open, unenclosed stairway or balcony, not covered by a roof or canopy, may extend or project into a required rear yard, and such balcony may extend into a required front yard not more than thirty (30) inches.
- (5) **Open Porch.** An open, unenclosed porch, platform or land place not covered by a roof or canopy, which does not extend or project into any required side yard not more than four (4) feet and into any required front or rear yard not more than eight (8) feet.

- (6) Fence or Wall. A fence, lattice-work screen or wall in connection with residential use, not more than six (6) feet in height, but not to extend into the required front yard, or a hedge or thick growth of shrubs, maintained so as not to exceed four (4) feet in height may be located in any required front yard or side yard except for corner setbacks as required in section 10.06.050.095.
- (7) Landscape feature. Landscape feature, such as trees, shrubs, flowers or plants, shall be permitted in any required front, side or rear yard, provided it does not violate the provisions of section 10.06.050.095. (Ord. 1983-unnumbered, S6.038, Sept. 12, 1983)

10.06.070 NONCONFORMING USES

- 10.06.070.010 Continuance of nonconforming buildings or uses**
- 10.06.070.011 Nonconforming buildings or structures**
- 10.06.070.012 Nonconforming use of buildings or structures**
- 10.06.070.020 Amortization of nonconforming uses or buildings**
- 10.06.070.030 Nonconformance due to reclassification**

10.06.070.010 Continuance of nonconforming buildings or uses. The lawful use of a building or premises, existing at the time of the effective date of this ordinance, may be continued although such use does not conform to the provisions thereof. (Ord. 1983-unnumbered, S7.010, Sept. 12, 1983)

10.06.070.011 Nonconforming buildings or structures. Provisions for nonconforming buildings or structures existing at the time of passage of this ordinance are as follows:

- (1) Maintenance permitted. A nonconforming structure lawfully existing upon the effective date of this ordinance may be maintained.
- (2) Repairs and Alterations. Repairs and alterations may be made to a nonconforming building or structure, provided that no enlargement shall be made.
- (3) Additions, Enlargements or Moving. A structure nonconforming as to use, height, yard requirements or lot area per dwelling unit shall not be added to or enlarged in any manner unless such structure, including such addition or enlargement, is made to conform to the use, height, yard, and area requirements of the zone in which it is located.

No nonconforming building or structure shall be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all the regulations of the zone in which it is located. (Ord. 1983-unnumbered, S7.011, Sept. 12, 1983)

10.06.070.012 Nonconforming use of buildings or structures. Provisions for nonconforming uses for buildings and structures existing at the time of passage of this ordinance are as follows:

- (1) Continuation and change of use. Except as otherwise provided in this ordinance:

- A. The nonconforming use of a building or structure, lawfully existing at the time this ordinance became effective, may be continued.
 - B. The nonconforming use of a building or structure may be changed only to a use of the same or more restricted classification.
- (2) Expansion prohibited. The following types of expansion are prohibited or limited. A nonconforming use of a building or structures designed for a conforming use shall not be expanded or extended into any other portion of such conforming building or structure nor changed except to a conforming use.
 - (3) A nonconforming use on a part of a lot shall not be expanded or extended into any portion of such lot.
 - (4) A nonconforming use of a building or structure designed for such use may be expended by fifteen (15) percent of the area nonconforming at the time of passage of this ordinance. (Ord. 1983-unnnumbered, §7.012, Sept. 12, 1983)

10.06.070.020 Amortization of nonconforming uses or buildings. The use of nonconforming uses or buildings shall be discontinued or phased out as provided in the following provisions:

- (1) Discontinuance. Whenever a nonconforming use has been discontinued for a period of twelve (12) months, such use shall be made in conformity with the provisions of this ordinance, except as permitted in subsection (2) below.
- (2) Discontinuance seasonal trade. Whenever a nonconforming use dependent on seasonal trade has been discontinued for a period of fourteen (14) months, such use shall not thereafter be re-established and any future use shall be in conformity with the provisions of this ordinance.
- (3) Damaged building. No building damaged by fire or other causes to the extent that its restoration will cost more than double its assessed valuation shall be repaired or rebuilt except to conform to the provisions of this ordinance.
- (4) Open use. Any nonconforming open use of land lawfully existing upon the effective date of this ordinance and not previously designated as a nonconforming open use of land by any prior zoning ordinance, shall be discontinued or be made conforming on or before five (5) years after the effective date of this ordinance. Any nonconforming open use of land that has been previously zoned as a nonconforming open use of land with a five (5) year amortization

period established, shall be discontinued on or before the date as established under the previous zoning jurisdiction. (Ord. 1983-
unnumbered, S7.020, Sept. 12, 1983)

10.06.070.030 Nonconformance due to reclassification. The provisions of Title 10.06.070 shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of zones under this ordinance, or any subsequent change in the regulations of this ordinance, and any time periods specific for discontinuance of nonconforming uses shall be measured from the date of such reclassification or change. (Ord. 1983-
unnumbered, S7.030, Sept. 12, 1983)

10.06.080 AMENDMENTS TO ORDINANCE AND MAP

10.06.080.010	Amendments or repeal
10.06.080.020	Amendment procedure
10.06.080.021	Initiation of zoning amendments
10.06.080.022	Contents of application
10.06.080.023	Transmittal to plan commission
10.06.080.024	Public hearing by plan commission
10.06.080.025	Notice of public hearing in newspaper
10.06.080.026	Notice to property owners by plan commission
10.06.080.027	Recommendation by plan commission
10.06.080.028	Approval by the Town Council
10.06.080.030	Effective date
10.06.080.040	Affect of annexation

10.06.080.010 Amendments or repeal. Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Town Council may, by ordinance, after receipt of recommendations from the plan commission and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property. (As amended by Ordinance 1997-7-3, July 28, 1997) (Ord. 1983-unnumbered, S8.010, Sept. 12, 1983)

10.06.080.020 Amendment procedure. This ordinance may from time to time be amended as provided in IC 36-7-4 sections 607 and 608 and outlined in the following sections. (Ord. 1983-unnumbered, S8.020, Sept. 12, 1983)

10.06.080.021 Initiation of zoning amendments. Amendments to this ordinance may be initiated in one of the following ways:

- (1) By adoption of a motion by the plan commission;
- (2) By adoption of a resolution by the town board of trustees; or
- (3) By the filing of a petition by at least fifty percent (50%) of the owners of property within the area proposed to be changed or affected by said amendment. (Ord. 1983-unnumbered, S8.021, Sept. 12, 1983)

10.06.080.022 Contents of application. Applications for amendments to the zoning ordinance (official zoning map adopted as part of this ordinance) shall contain at least the following information:

- (1) Name, address, and phone number of applicant;
- (2) Present use;
- (3) Present zoning district;

- (4) Proposed zoning district;
- (5) A vicinity map at a scale approved by the zoning administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the zoning administrator may require;
- (6) A list of all property owners and their mailing addresses who are within, contiguous to, or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case;
- (7) A statement on how the proposed amendment relates to the comprehensive plan;
- (8) A fee as established by the town board according to Section 10.06.020.120.

Applications for amendments proposing to amend, supplement, change, or repeal text portions to this ordinance shall include item (1) and (8) listed above. (Ord. 1983-unnumbered, S8.022, Sept. 12, 1983)

10.06.080.023 Transmittal to plan commission. Immediately after the filing of a petition for amendment, said petition or application shall be transmitted to the commission. (Ord. 1983-unnumbered, S8.023, Sept. 12, 1983)

10.06.080.024 Public hearing by plan commission. The plan commission shall schedule a public hearing after a petition is received. Said hearing shall be not less than twenty (20) nor more than forty (40) days from the date of adoption of such motions, transmittal of such resolution, or the filing of such application. Notices shall be in the newspaper as described in Section 10.06.080.025. (Ord. 1983-unnumbered, S8.024, Sept. 12, 1983)

10.06.080.025 Notice of public hearing in newspaper. Notice of public hearing required in Section 10.06.080.024 shall be given by the plan commission by at least one (1) publication in one (1) or more newspapers of general circulation in the town affected. Said notice shall be published at least ten (10) days before the date of the required hearing. The published notice shall conform to local procedures setting forth the time and place of the public hearing and a summary of the proposed amendment. The commission may require the applicant to bear the cost of the public notice. (Ord. 1983-unnumbered, S8.025, Sept. 12, 1983)

10.06.080.026 Notice to property owners by plan commission. If the proposed amendment intends to rezone or redistrict any parcel of land as listed on the tax duplicate, written notice of the hearing may be mailed by the plan commission by first class mail, at least twenty (20) days before the day of the public hearing to all owners of property within, contiguous to, or directly across the street from such area proposed to be rezoned or redistricted. Said notices shall be mailed to the address of such owners appearing on the county auditor's

current tax list or the treasurer's mailing list. Failure to deliver the notification, as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in Section 10.60.080.025. (Ord. 1983-unnumbered, S8.026, Sept. 12, 1983)

10.06.080.027 Recommendation by plan commission. Within sixty (60) days from the receipt of the proposed amendment, the plan commission shall transmit its recommendation to the Town Council. The plan commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied. (As amended by Ordinance 1997-7-3, July 28, 1997) (Ord. 1983-unnumbered, S8.027, Sept. 12, 1983)

10.06.080.028 Approval by the Town Council. After the public hearing required by Section 8.024, the Town Council shall either adopt or deny the recommendation of the plan commission or adopt some modification thereof. In the event the Town Council reverses a recommendation of the plan commission, it must do so by not less than three-fourths of the full membership of the Town Council. No such ordinance shall be passed unless it has been fully read according to statute, except that such ordinance may become emergency legislation if three-fourths of the members of the Town Council vote to waive this rule. (As amended by ordinance 1997-7-3, July 28, 1997) Ord. 1983-unnumbered, S8.028, Sept. 12, 1983)

10.06.080.030 Effective date. Such amendment adopted by the Town Council shall become effectively immediately upon adoption and approval by the Town Council president. (As amended by ordinance 1997-7-3, July 28, 1997) (Ord. 1983-unnumbered, S8.030, Sept. 12, 1983)

10.06.080.040 Affect of annexation. All land annexed to the town subsequent to the adoption of this ordinance shall remain subject to the previous county zoning district until such time as the official zoning map is amended according to the provisions of this title. All land annexed to the town which, prior to annexation, is not subject to county zoning, shall have the highest zoning classification of the town until the official zoning map is amended to the provisions of this title. (Ord. 1983-unnumbered, S8.040, Sept. 12, 1983)

10.06.090 VALIDITY AND ADOPTION

- 10.06.090.010 Severance clause**
- 10.06.090.020 Effective date**

10.06.090.010 Severance clause. If any section, subsection, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, subsection, provision or portion of this ordinance. (Ord. 1983-unnumbered, S9.010, Sept. 12, 1983)

10.06.090.020 Effective date. This ordinance shall take effect upon its passage (approval by the Town Council).

PASSED and ENACTED by the Town Council of the Town of Grandview, Indiana, on the 12th day of September, 1983. (Ord. 1983-unnumbered, S9.020, Sept. 12, 1983)

Chapter 10.13

LICENSING REQUIREMENTS AND REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES

Sections:

- 10.13.010 Rational and findings**
- 10.13.020 Definitions**
- 10.13.030 Classifications**
- 10.13.040 License required**
- 10.13.050 Issuance of license**
- 10.13.060 Fees**
- 10.13.070 Inspection**
- 10.13.080 Expiration of license**
- 10.13.090 Suspension**
- 10.13.100 Revocation**
- 10.13.110 Hearing; License denial, revocation, and suspension; appeal**
- 10.13.120 Transfer of license**
- 10.13.130 Hours of operation**
- 10.13.140 Regulation pertaining to exhibition of sexually explicit films or videos**
- 10.13.150 Loitering, exterior lighting, visibility, and monitoring requirements**
- 10.13.160 Enforcement**
- 10.13.170 Applicability or ordinance to existing buildings**
- 10.13.180 Prohibited activities**
- 10.13.190 Scierter required to prove violation or business licensee liability**
- 10.13.200 Failure of County to meet deadline not to risk applicant/licensee rights**
- 10.13.210 Location of sexually oriented businesses**
- 10.13.220 Severability**
- 10.13.230 Conflicting code provisions**
- 10.13.240 Effective date**

10.13.010. Rationale and findings.

- (1) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable

access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

- (2) Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Commissioners, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 124 S.Ct. 2219 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's AM v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); and

Schultz v. City of Cumberland, 26 F.Supp.2d 1128 (W.D. Wisc. 1998), *aff'd in part, rev'd in part*, 228 F.3d 831 (7th Cir. 2000); *Blue Canary Corp. v. City of Milwaukee*, 270 F.3d 1156 (7th Cir. 2001); *Matney v. County of Kenosha*, 86 F.3d 692 (7th Cir. 1996); *Berg v. Health & Hospital Corp.*, 865 F.2d 797 (1989); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (1999); *Graff v. City of Chicago*, 9 F.3d 1309 (1993); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (1996); *Chulchian v. City of Indianapolis*, 633 F.2d 27 (7th Cir. 1980); *Bigg Wolf Discount Video v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *County of Cook v. Renaissance Arcade and Bookstore*, 122 Ill. 2d 123 (1988) (including cases cited therein); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *People ex rel Deters v. Effingham Retail 27, Inc.*, No. 04-CH-26 (4th Judicial Circuit, Effingham County, Ill., June 13, 2005); *Annex Books, Inc. v. City of Indianapolis*, No. 1:03 CV-918, Summary Judgment Order, Aug. 27, 2004 and Order Denying Motion to Alter or Amend, Mar. 31, 2005 (S.D. Ind.); *Andy's Lounge et al. v. City of Gary*, No. 2:01-CV-327, Order Granting Summary Judgment, Mar. 31, 2005 (N.D. Ind.); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Abilene Retail #30, Inc. v. Board of Commissioners*, 2005 U.S. Dist. LEXIS 30491 (D. Kan., Dec. 1, 2005);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden

Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Minneapolis, Minnesota - 1980; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota),

The Board of Commissioners finds:

- A. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- B. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- C. Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the County's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the County's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the County. The County finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects. (Ord. 2006-07-06, S1, July 6, 2006)

10.13.020. Definitions. For purposes of this ordinance, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

For terms defined in both this ordinance and Ordinance No. 2005-10, the definition in this ordinance shall control.

"Administrator" means the Spencer County Zoning Administrator.

"Adult Bookstore" means a commercial establishment which, as a principal part of its business, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."

A "principal part of its business" means that the commercial establishment:

- (1) has at least 35% of its displayed merchandise which consists of said items, or
- (2) has at least 35% of the wholesale value of its displayed merchandise which consists of said items, or
- (3) has at least 35% of the retail value of its displayed merchandise which consists of said items, or
- (4) derives at least 35% of its revenues from the sale or rental, for any form of consideration of said items, or
- (5) maintains a section of at least 35% of its interior business space for the sale or rental of said items; or
- (6) maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas."

"Adult Cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

"Adult Mini Motion Picture Theater" means any commercial establishment which regularly offers rooms with a capacity of more than 5 but less than 50 persons, wherein films, motion pictures, video cassettes, slides, or similar visual images that are distinguished or characterized by an emphasis on specified sexual

activities or specified anatomical areas are regularly presented for observation by patrons therein.

"Adult Motel," means a motel, hotel, or similar commercial establishment which:

- (1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of "specified sexual activities" or "specified anatomical areas"; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
- (2) offers a sleeping room for rent for a period of time that is less than 10 hours; or
- (3) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

"Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

"Adult Service Establishment" means any building, premises, structure, or other facility that uses at least 35% of the building, premises, structure, or other facility for commercial activities involving the display of specified sexual activities or specified anatomical areas.

"Board of Commissioners" means the Board of Commissioners of Spencer County, Indiana.

"Characterized by" means describing the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

"County" means Spencer County, Indiana.

"Employ, Employee, and Employment" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

"Establish or Establishment" shall mean and include any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
- (3) The addition of any sexually oriented business to any other existing sexually oriented business.

"Hearing Body" shall mean the Board of Commissioners of Spencer County.

"Influential Interest" means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

"Licensee" shall mean a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

"Nudity or a State of Nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple.

"Operate or Cause to Operate" shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

"Person" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

"Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, any trailers, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section 10.13.040 of this ordinance.

"Regularly" means and refers to the consistent and repeated doing of the act so described.

"Semi-Nude or State of Semi-Nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

"Semi-Nude Model Studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

- (1) By a college, junior college, or university supported entirely or partly by taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or:
- (3) In a structure:
 - A. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - B. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

"Sexual Device" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

"Sexual Device Shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be

construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

"Sexual Encounter Center" shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

"Sexually Oriented Business" means an "adult bookstore," an "adult cabaret," an "adult mini motion picture theater," an "adult motel," an "adult motion picture theater," an "adult service establishment," a "semi-nude model studio," a "sexual device shop," or a "sexual encounter center," as defined in this ordinance. The term "sexually oriented business" shall also include an "adult drive-in theater," an "adult live entertainment arcade," and an "adult motion picture arcade," as defined in Ordinance No. 2005-10.

"Specified Anatomical Areas" means and includes:

- (1) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified Criminal Activity" means:

- (1) any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:
 - A. rape, sexual assault, public indecency, statutory rape, rape of a child, sexual exploitation of a minor, indecent exposure;
 - B. prostitution, patronizing prostitution, promoting prostitution;
 - C. obscenity;
 - D. dealing in controlled substances;
 - E. racketeering, tax evasion, money laundering;
- (2) any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (3) any offense in another jurisdiction that, had the predicate act(s) been committed in Indiana, would have constituted any of the foregoing offenses.

"Specified Sexual Activity" means any of the following:

- (1) intercourse, oral copulation, masturbation or sodomy; or
- (2) excretory functions as a part of or in connection with any of the activities described in (1) above.

"Substantial" means at least thirty-five percent (35%) of the item(s) so modified.

"Transfer of Ownership or Control", of a sexually oriented business shall mean any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing Room" shall mean the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction. (Ord. 2006-07-06, S2, July 6, 2006)

10.13.030 Classifications.

The classifications for sexually oriented businesses shall be as follows:

- (1) Adult bookstore;
- (2) Adult cabaret;
- (3) Adult motel;
- (4) Adult mini motion picture theater;
- (5) Adult motion picture theater;
- (6) Adult service establishment;
- (7) Semi-nude model studio;
- (8) Sexual device shop;
- (9) Sexual encounter center. (Ord. 2006-07-06, S3, July 6, 2006)

10.13.040 License required.

- (1) It shall be unlawful for any person to operate a sexually oriented business in Spencer County without a valid sexually oriented business license.

- (2) It shall be unlawful for any person to be an "employee," as defined in this Ordinance, of a sexually oriented business in Spencer County without a valid sexually oriented business employee license.
- (3) An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the Administrator a completed application made on a form provided by the Administrator. The application shall be signed as required by subsection (5) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in Paragraphs A. through G. below, accompanied by the appropriate fee identified in Section 10.13.060:
 - A. The applicant's full true name and any other names used by the applicants in the preceding five (5) years.
 - B. Current business address or another mailing address of the applicant.
 - C. Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
 - D. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
 - E. If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
 - F. A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
 - G. A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 1. been declared by a court of law to be a nuisance; or
 2. been subject to a court order of closure or padlocking.

The information provided pursuant to Paragraphs A. through G. of this subsection shall be supplemented in writing by certified mail,

return receipt requested, to the Administrator within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (4) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Sections 10.13.140 and 10.13.180 of this chapter shall submit a diagram indicating that the interior configuration meets the requirements of those sections.
- (5) If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 10.13.050 and each applicant shall be considered a licensee if a license is granted.
- (6) The information provided by an applicant in connection with an application for a license under this ordinance shall be maintained by the office of the Administrator on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by law or court order. (Ord. 2006-07-06, S4, July 6, 2006)

10.13.050 Issuance of license.

- (1) Upon the filing of a completed application under Section 10.13.040(3) for a sexually oriented business license, the Administrator shall immediately issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the County to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business license application, the Administrator shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The Administrator shall issue a license unless:
 - A. An applicant is less than eighteen (18) years of age.
 - B. An applicant has failed to provide information as required by Section 10.13.040 for issuance of a license or has falsely answered a question or request for information on the application form.

- C. The license application fee required by this Ordinance has not been paid.
 - D. The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this Ordinance or is not in compliance with locational requirements of this ordinance or the locational requirements of any other Spencer County ordinance.
 - E. Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - 1. been declared by a court of law to be a nuisance; or
 - 2. been subject to an order of closure or padlocking.
 - F. An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.
- (2) Upon the filing of a completed application under Section 10.13.040(3) for a sexually oriented business employee license, the Administrator shall immediately issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the County to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business employee license application, the Administrator shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Administrator shall approve the issuance of a license unless:
- A. The applicant is less than eighteen (18) years of age.
 - B. The applicant has failed to provide information as required by Section 10.13.040 for issuance of a license or has falsely answered a question or request for information on the application form.
 - C. The license application fee required by this Ordinance has not been paid.
 - D. Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - 1. been declared by a court of law to be a nuisance; or

2. been subject to an order of closure or padlocking.
- E. The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.
- (3) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing. (Ord. 2006-07-06, S5, July 6, 2006)

10.13.060 Fees.

- (1) The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: one hundred dollars (\$100) for the initial fee for a sexually oriented business license and fifty dollars (\$50) for annual, renewal; fifty dollars (\$50) for the initial sexually oriented business employee license and twenty-five dollars (\$25) for annual renewal. (Ord. 2006-07-06,S6, July 6, 2006)

10.13.070 Inspection. Sexually oriented businesses and sexually oriented business employees shall permit the Administrator and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this Ordinance, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the County to authorize reasonable inspections of the licensed premises pursuant to this ordinance, but not to authorize a harassing or excessive pattern of inspections. (Ord. 2006-07-06, S7, July 6, 2006)

10.13.080 Expiration of license.

- (1) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Sections 10.13.040 and 10.13.060.
- (2) Application for renewal should be made pursuant to the procedures set forth in 10.13.040 at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the

expiration date, the expiration of the license will not be affected. (Ord. 2006-07-06, S8, July 6, 2006)

10.13.090 Suspension.

- (1) The County shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly violated this ordinance or has knowingly allowed an employee to violate this Ordinance.
- (2) The County shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has knowingly violated this Ordinance. (Ord. 2006-07-06, S9, July 6, 2006)

10.13.100 Revocation.

- (1) The County shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this ordinance or has knowingly allowed an employee to violate this ordinance and the licensee's license has been suspended within the previous twelvemonth (12-mo.) period.
- (2) The County shall issue written intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:
 - A. The licensee has knowingly given false information in the application for the sexually oriented business license.
 - B. The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises;
 - C. The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises;
 - D. The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or
 - E. The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.
- (3) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any

conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

- (4) When, after the notice and hearing procedure described in Section 10.13.110, the Board of Commissioners revokes a license, the revocation shall continue for one (1) years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective. (Ord. 2006-07-06, S10, July 6, 2006)

10.13.110 Hearing; License denial, revocation, and suspension; appeal.

- (1) When the Administrator issues a written notice of intent to deny, suspend, or revoke a license, the Administrator shall immediately send such notice, which shall include the specific grounds under this ordinance for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Administrator for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which the Board of Commissioners shall conduct a hearing on the Administrator's intent to deny, suspend, or revoke the license.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Administrator's witnesses. The Administrator shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Board of Commissioners shall issue, a written decision, including specific reasons for the decision pursuant to this ordinance, to the respondent within five (5) days after the hearing. Ten (10) days after the Board issues its written decision, said decision shall be deemed final and any Temporary License shall expire.

If the decision is to deny, suspend, or revoke the license, the decision shall include a statement advising the respondent of the right to appeal or challenge such decision in a court of competent jurisdiction. If the Board of Commissioners' decision finds that no grounds exist for denial, suspension, or revocation of the license, the Board of Commissioners shall, contemporaneously with the issuance of the decision, order the Administrator to immediately withdraw the intent to deny, suspend, or revoke the license and to

notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the Administrator shall contemporaneously therewith issue the license to the applicant.

- (2) If any court action challenging the Board of Commissioners' decision is initiated, the Board of Commissioners shall prepare and transmit to the court a transcript of the hearing within ten (10) days after receiving written notice of the filing of the court action. The Board of Commissioners shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully in operation, in all respects, as of the effective date of this ordinance: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the County's enforcement of the denial, suspension, or revocation, the County shall immediately issue the respondent a Provisional License. The Provisional License shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the County's enforcement. (Ord. 2006-07-06, S11, July 6, 2006)

10.13.120 Transfer of license. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application. (Ord. 2006-07-06, S12, July 6, 2006)

10.13.130 Hours of operation. No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day. Section Two, paragraph (3), of Ordinance No. 2005-10 (regulating hours of nude entertainment) is hereby repealed. (Ord. 2006-07-06, S13, July 6, 2006)

10.13.140 Regulations pertaining to exhibition of sexually explicit films or videos.

- (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, or other visual reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
 - A. Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of

the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- B. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Paragraph A of this subsection.
- C. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
- D. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
- E. It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - 1. That the occupancy of viewing rooms is limited to one person.
 - 2. That sexual activity on the premises is prohibited.
 - 3. That the making of openings between viewing rooms is prohibited.
 - 4. That violators will be required to leave the premises.

5. That violations of Subparagraphs 1., 2., and 3., of this paragraph are unlawful.
 - F. It shall be the duty of the operator to enforce the regulations articulated in E.1 through 4 above.
 - G. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- (2) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty. (Ord. 2006-07-06, S14, July 6, 2006)

10.13.150 Loitering, exterior lighting, visibility, and monitoring requirements.

- (1) It shall be the duty of the operator of a sexually oriented business to:
 - (1) post conspicuous signs stating that no loitering is permitted on such property;
 - (2) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and
 - (3) provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

- (2) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.
- (3) No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way. (Ord. 2006-07-06, S15, July 6, 2006)

10.13.160 Enforcement.

- (1) Any sexually oriented business which engages in repeated or continuing violations of this ordinance shall constitute a public nuisance. For purposes of this ordinance, "repeated violations" shall mean three or more violations of this ordinance within a one (1) year period dating from the time of any violation, and a "continuing violation" shall mean a violation of this ordinance lasting for three or more consecutive days.
- (2) The County's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this ordinance to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the County, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such proceedings as may be authorized by other provisions of this ordinance, or any of the laws or ordinances in force in the County or to exempt anyone violating this ordinance or any part of the said laws from any penalty which may be incurred. (Ord. 2006-07-06, S16, July 6, 2006)

10.13.170 Applicability of ordinance to existing businesses. This ordinance is necessary to the immediate preservation of the public health and safety, to prevent the negative secondary effects of sexually oriented businesses, and therefore shall become effective immediately upon passage. All sexually oriented businesses lawfully operating in all respects, and all sexually oriented business employees working in a lawfully operating sexually oriented business, on the effective date of this ordinance, are hereby granted a *De Facto* Temporary License to continue operation or employment without a license for a period of thirty (30) days following the effective date of this ordinance. By the end of said thirty (30) days, all sexually oriented businesses and sexually oriented business employees shall apply for a license under this ordinance. During said thirty (30) days, all requirements of this ordinance, except for the requirement of obtaining a license, shall be in full force and effect. (Ord. 2006-07-06, S17, July 6, 2006)

10.13.180 Prohibited activities. It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

- (1) It shall be a violation of this ordinance for a patron, employee, or any other person to knowingly or intentionally, in a sexually

oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.

- (2) It shall be a violation of this ordinance for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.
- (3) It shall be a violation of this ordinance for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.
- (4) It shall be a violation of this ordinance for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.
- (5) It shall be a violation of this ordinance for any person to knowingly allow a person under 18 years of age to be or remain on the premises of a sexually oriented business.

A sign in a form to be prescribed by the Administrator, and summarizing the provisions of Paragraphs (1), (2), (3), (4), and (5) of this Section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. (Ord. 2006-07-06, S18, July 6, 2006)

10.13.190 Scienter required to prove violation or business licensee liability. This ordinance does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this ordinance. Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act. (Ord. 2006-07-06, S19, July 6, 2006)

10.13.200 Failure of County to meet deadline not to risk applicant/licensee rights. In the event that a County official is required to take an act or do a thing pursuant to this ordinance within a prescribed time, and fails to take such act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the County official under this ordinance, and not completed in the

time prescribed, includes approval of condition(s) necessary for approval by the County of an applicant or licensee's application for sexually oriented business license or a sexually oriented business employee's license (including a renewal), the condition shall be deemed met the day after the deadline for the County's action has passed. Ord. 2006-07-06, S20, July 6, 2006)

10.13.210 Location of sexually oriented businesses.

- (1) Sexually oriented businesses shall not be required to obtain a special exception permit. It shall be unlawful to operate a sexually oriented business except in the BI, B2, B3, I1, or 12 zoning districts.
- (2) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in Spencer County, unless said sexually oriented business is at least:
 - A. 1,000 feet from any parcel occupied by another sexually oriented business or by a business licensed by the State of Indiana to sell alcohol at the premises; and
 - B. 1,000 feet from any parcel occupied by any church, public or private elementary or secondary school, daycare center or preschool, public park, or any residence.
- (3) For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the nearest portion of any building or structure on the premises where the sexually oriented business is located to the closest property line of the property containing the church, public or private elementary or secondary school, daycare center or preschool, public park, or any residence.
- (4) Notwithstanding anything to the contrary in any Spencer County ordinance, a nonconforming sexually oriented business, lawfully existing in all respects under law prior to the effective date of this ordinance, may continue to operate for one (1) year following that date in order to make a reasonable recoupment of its investment in its current location. At the conclusion of said one (1) year, the use will no longer be recognized as a lawful nonconforming use, provided that a nonconforming sexually oriented business may apply for one or more six-month extensions of the original one-year period upon a showing of financial hardship. An application for an initial extension based upon a showing of financial hardship ("hardship exception") shall be made at least sixty (60) days before the conclusion of the aforementioned one-year (1-yr.) period. If a hardship extension is granted, subsequent applications for hardship extensions shall be made at least sixty (60) days before the conclusion of the non-conforming sexually oriented business's current extension period.

- (5) Procedure for seeking hardship extension. An application for a hardship extension shall be filed in writing with the Administrator, and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, and costs of relocation. Within ten (10) days after receiving the application, the Administrator shall schedule a public hearing on the application before the Plan Commission, which public hearing shall be conducted within thirty (30) days after the Administrator's receipt of the application. Notice of the time and place of such public hearing shall be published at least ten (10) days before the hearing in a newspaper of general circulation published within the County, and shall contain the particular location for which the hardship extension is requested.

The Plan Commission shall issue a written decision within ten (10) days after the public hearing on the application for a hardship extension. The hardship extension shall be granted upon a showing that the nonconforming sexually oriented business is unable absent the extension, to make a reasonable recoupment of its investment in its currently lawful, nonconforming use location. (Ord. 2006-07-06, S21, July 6, 2006)

10.13.220 Severability. This ordinance and each section and provision of said ordinance hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said ordinance, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this ordinance. (Ord. 2006-07-06, S22, July 6, 2006)

10.13.230 Conflicting code provisions. In the event of any conflict between any provision of this ordinance and any provision(s) in another Spencer County ordinance, the provisions of this ordinance shall prevail. (Ord. 2006-07-06, S23, July 6, 2006)

10.13.240 Effective date. This ordinance shall be in full force and effect immediately upon passage. Dated this 6th day of July, 2006. (Ord. 2006-07-06, S23, July 6, 2006)