

TITLE 16
ZONING

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Chapter 16.00

PREAMBLE AND ORDAINING CLAUSE

Sections:

16.00.000 Zoning Ordinance.

16.00.000 Zoning Ordinance.

ORDINANCE NO. 1993-17
JASPER, INDIANA ZONING ORDINANCE

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF JASPER, INDIANA AND ITS JURISDICTIONAL AREA AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 174 OF THE ACTS OF THE GENERAL ASSEMBLY OF INDIANA, 1947, AND ALL ACTS SUPPLEMENTAL AND AMENDATORY THERETO, AND FOR THE REPEAL OF: ORDINANCE NO. 461 "ZONING ORDINANCE OF JASPER, INDIANA" ADOPTED 30 JANUARY 1957; ORDINANCE NO. 491 "MASTER PLAN OF JASPER, INDIANA, 1959", ADOPTED IN 1959; ORDINANCE NO. 649 AMENDING ORDINANCE NO. 461 "ZONING ORDINANCE OF JASPER, INDIANA"; ORDINANCE NO. 896 "ZONING ORDINANCE AND SUBDIVISION CONTROL ORDINANCE OF JASPER, INDIANA; AND, ALL OTHER ORDINANCES AND SECTIONS OF THE MUNICIPAL CODE OF JASPER, INDIANA, IN CONFLICT WITH ORDINANCE OR ANY SECTION THEREOF ARE HEREBY EXPRESSLY REPEALED EFFECTIVE 12:01 A.M., JULY 1, 1993.

WHEREAS Chapter 174 of the Acts of the General Assembly of Indiana, 1947, empowers the City to enact a Zoning Ordinance and to provide for its administration, enforcement and amendment, and

WHEREAS the City Council deems it necessary, for the purpose of promoting the public health, safety, comfort, convenience and general welfare of the City to enact such an Ordinance, and

WHEREAS the City Council, pursuant to the provisions of Chapter 174 of the Acts of the General Assembly of Indiana, 1947, and all acts supplemental and amendatory thereto, have created a Plan Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein, and

WHEREAS the Plan Commission has divided the City and its jurisdictional area into zoning districts and has prepared regulations pertaining to such districts in accordance with a Comprehensive Plan and designed so 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; that property values may be preserved; and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted, and

WHEREAS the Plan Commission has given reasonable consideration to existing conditions, the character of existing structures and uses, the most desirable use for which the land in each district is adapted and the conservation of property values throughout the City and its Jurisdictional Area, and

WHEREAS the Plan Commission has held public hearings and conferences concerning the Zoning Ordinance, and has submitted their recommendations to the City Council, and

WHEREAS all requirements of Chapter 174 of the Acts of the General Assembly of Indiana, 1947, and all acts supplemental and amendatory thereto, with regard to the preparation of the Zoning Ordinance and the subsequent action of the City Council have been met:

The above Ordinance was adopted by the Common Council at its regular meeting held on the 19th day of May, 1993.

EFFECTIVE DATE: 12:01 A.M., July 1, 1993

Presiding Officer

Mayor of Jasper

ATTEST: _____
City Clerk-Treasurer

Chapter 16.01

GENERAL PROVISIONS

Sections:

16.01.010	Title.
16.01.020	Authority.
16.01.030	Compliance.
16.01.040	Severability.
16.01.050	Application.
16.01.060	Jurisdiction.

16.01.010 Title. The official title of the Ordinance is: "Zoning Ordinance of the City of Jasper, Indiana and its jurisdictional area". (Ord. 1993-17, S101, 1993; Ord. 896 S101, 1977)

16.01.020 Authority. The Ordinance codified in this Chapter is adopted pursuant to Chapter 174 of the Acts of the General Assembly of Indiana, 1947, and all acts supplemental and amendatory thereto. (Ord. 1993-17, S102, 1993; Ord. 896 S102, 1977)

16.01.030 Compliance. No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Chapter and after the lawful issuances of the permits required by this Chapter. (Ord. 1993-17, S103, 1993; Ord. 896 S103, 1977)

16.01.040 Severability. If any provision of Ordinance 1993-17 or the application of any provision to particular circumstances is held invalid, the remainder of Ordinance 1993-17 or the application of such provision to other circumstances shall not be affected. (Ord. 1993-17, S104, 1993; Ord. 896 S104, 1977)

16.01.050 Application. Whenever regulations or restrictions imposed by this Chapter are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule or regulations, the regulations, rules or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this Chapter, no land shall be used and no structure erected or maintained in violation of any State or Federal pollution control or environmental protection law or regulation. (Ord. 1993-17, S105, 1993; Ord. 896 S105, 1977)

16.01.060 Jurisdiction. This Ordinance shall apply to all incorporated land within the City of Jasper and the unincorporated land within the jurisdictional area of Jasper as shown on the Jurisdictional Area map on file in the Plan Commission office and the Dubois County Recorder's office. (Ord. 2007-36, S1, Oct. 17, 2007) (Ord. 1993-17, S106, 1993; Ord. 896 S106, 1977)

Chapter 16.02

DISTRICT REGULATIONS

Sections:

16.02.010	Zoning Maps.
16.02.020	Zoning Districts.
16.02.030	District Boundaries.
16.02.040	Flood Plain District.
16.02.050	Floodway District.
16.02.060	Floodway Fringe District.
16.02.070	Agriculture District.
16.02.080	Residential Districts.
16.02.090	Business Districts.
16.02.100	Industrial Districts.
16.02.110	Permitted Uses and Special Exceptions.
16.02.120	Lot and Yard Requirements.
16.02.130	Setback Requirements.
16.02.140	Height Regulations.

16.02.010 Zoning Maps. A "Zoning Map" of the City of Jasper and the land under jurisdiction of the Jasper Plan Commission, said map being marked "Official Zoning Map of the City of Jasper and its Jurisdictional Area" and being certified as such by Common Council, is hereby adopted as a part of this Ordinance. The Zoning Maps shall be kept on file and available for examination at the offices of the City Plan Commission, and an extra certified copy shall be filed with the Clerk-Treasurer for storage in the City office vault. (Ord. 1993-17, S201, 1993; Ord. 896, S201, 1977)

16.02.020 Zoning Districts. The City and jurisdictional area are divided into the districts stated in this Ordinance as shown by the district boundaries on the Zoning Maps. The districts are:

"FP"	Flood Plain
"FW"	Floodway
"FF"	Floodway Fringe
"A-1"	Agriculture
"R-R"	Rural Residential
"R-1"	Residential (Low Density)
"R-2"	Residential (Low Density)
"R-3"	Residential (Medium Density)
"R-4"	Residential (High Density)
"B-1"	Business (Neighborhood)
"B-2"	Business (CBD)
"B-3"	Business (General)
"I-B"	Industrial and Business
"I-1"	Industrial (Light)
"I-2"	Industrial (Heavy)
"PUD"	Planned Unit Development (See 16.03.150) (Ord. 1993-17, S202, 1993; Ord. 896, S202, 1977)

16.02.030 District Boundaries. District boundaries shown within the lines of streets, streams, and transportation rights-of-way shall be deemed to follow their centerlines. The vacation of streets shall not affect the locations of such district boundaries. When the zoning administrator cannot definitely determine the location of a district boundary by such centerlines, by the scale or dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Board of Zoning Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this Ordinance. (Ord. 1993-17, S203, 1993; Ord. 896, S203, 1977)

16.02.040 Flood Plain District. The purpose of the "FP" District is to guide development in flood hazard areas in which a Commission Floodway has not been established. These areas were not studied in detail in the Flood Insurance Study and are shown as approximate one hundred-year flood plains on the flood boundary and floodway maps. (Ord. 1993-17, S204, 1993; Ord. 1082, S4, 1982; Ord. 896, S204, 1977)

16.02.050 Floodway District. The purpose of the "FW" District is to delineate the area established by the Federal Emergency Management Agency as a Floodway. Natural Resources exercises primary jurisdiction within the floodway district under the provisions of Chapter 318, Acts of 1945, as amended (I.C. 1971, 13-2-22). The Commission may place terms and conditions on any permit it issues in the floodway district which are more restrictive than those imposed by Natural Resources. (Ord. 1993-17, S205, 1993; Ord. 1082, S5, 1982; Ord. 896, S205, 1977)

16.02.060 Floodway Fringe District. The purpose of the "FF" District is to regulate land use in the Flood Hazard Area outside the floodway. The Floodway Fringe "FF" District, may stand by itself or be combined with any district which the Plan Commission deems appropriate. Generally speaking, all construction of buildings in this district shall be two feet above regulatory flood profile as established by Natural Resources.

In the "FP", "FW" and "FF" Districts established herein, the degree of flood protection established in this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice or debris jams. This Ordinance does not imply that areas outside flood hazard districts, as defined herein, will be free of flooding or flood damage. This Ordinance does not create any liability on the part of the City of Jasper or the County of Dubois, Indiana, the Commission, Natural Resources, the State of Indiana, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder. (Ord. 1993-17, S206, 1993; Ord. 896, S206, 1977)

16.02.070 Agriculture District. The district designated for agriculture use, "A-1" is intended to preserve and protect agricultural land from undesirable urban growth. Limited residential development may be permitted when it does not adversely affect an agricultural use, displace prime cropland acreage, or create unsanitary conditions and if located on large-size lots which provide adequate space for private water and sewerage facilities. (Ord. 1993-17, S207, 1993; Ord. 896, S207, 1977)

16.02.080 Residential Districts. Districts designated for residential use, "R-R", "R-1", "R-2", "R-3", and "R-4", are limited to dwellings and public or semi-public uses which are normally associated with residential neighborhoods. The only uses permitted in the residential districts are those which would not detract from the residential character of the neighborhood. The purpose of these five districts is to create an attractive, stable and orderly residential environment. However, the families per dwelling and the lot and yard requirements are different in the five districts to provide for the various housing needs and desires of the citizens. (Ord. 1993-17, S208, 1993; Ord. 896, S208, 1977)

16.02.090 Business Districts. The districts designated for business, "B-1", "B-2", "B-3", and "I-B" are limited to business, public and certain residential uses. By establishing compact districts for such uses, more efficient traffic movement, parking facilities, fire protection and police protection may be provided. The purpose of these districts is to provide unified business and shopping districts conveniently located. The "B-1" Business District is intended to be utilized for local or neighborhood businesses where the businesses could be compatible with adjoining residential uses. The "B-2" Business District is intended to be utilized only in the existing central business district of Jasper. The "B-3" Business District is a general, all-purpose business district that includes many automobile oriented uses. "I-B" provides space for larger commercial uses, as well as for light industrial uses. In the event that a business meets the definition of a Sexually Oriented Business under this Title, but may also be considered another type of business under this Title or other applicable section of the Municipal Code of the City of Jasper, the rules and regulations pertaining to Sexually Oriented Businesses shall supersede and take precedence over the rules and regulations for any other type of business and said business shall be required to meet Sexually Oriented Business rules and regulations, including locating in an "I-1" or "I-2" Zoning District. (Ord. 2004-8, S2, Apr. 21, 2004) (Ord. 1993-17, S209, 1993; Ord. 896, S209, 1977)

16.02.100 Industrial Districts. The districts designated for industry, "I-B", "I-1", and "I-2", provide suitable space for existing industries and their expansion as well as for future industrial development. Performance standards, parking specifications, and yard regulations are set forth in this Ordinance in order to insure safe industrial development that is compatible with adjacent uses. The locations of the districts are near railroads or highways in order to meet the transportation needs of industry. "I-B", provides space for larger commercial uses, as well as for light industrial uses. "I-1", the light industrial district, provides space for industries which do not cause conditions that would be objectionable to neighboring properties. "I-2", the heavy industrial district, provides space for certain intensive industrial operations which may have some objectionable characteristics. Greater separation is required between the industries in the "I-2" district and residential or business uses than is necessary in the "I-B" and "I-1" districts. (Ord. 1993-17, S210, 1993; Ord. 896, S210, 1977)

16.02.110 Permitted Uses and Special Exceptions. The Permitted Uses for each district are shown in Table A. The uses that are listed for the various districts shall be according to the common meaning of the term or according to definitions given in Article 7. Uses not specifically listed or defined to be included in the categories under this Article shall not be permitted. The Special Exceptions for each district that may be permitted by the Board of Zoning Appeals are also shown in Table A. The Board of Zoning Appeals shall follow the provisions of Section 16.05.040 and any other applicable sections when considering any application for a special exception. (Ord. 1998-13, S1, S2, 1998; Ord. 1993-17, S211, 1993; Ord. 896, S211, 1977)

TABLE A

FP FLOODPLAIN DISTRICT (66,000 Sq. Ft.)

PERMITTED USES

1. Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards and general farming.
2. Forestry, wildlife areas, and nature preserves.
3. Parks and recreational uses, such as golf course, driving ranges and play areas.

SPECIAL EXCEPTIONS (Section 16.05.040)

Special exception uses, that may be permitted in the Floodplain (FP) District, shall be the result of review and determination by Natural Resources. If a permit for construction in a floodway is required by Natural Resources, the permit must be obtained before approval by the Plan Commission. All terms and conditions imposed by Natural Resources will be incorporated in any permit issued by the Plan Commission.

If Natural Resources does not require a permit for construction in a floodway, then the proposed use will be reviewed as if it is in a Floodway Fringe District (FF).

If during Natural Resources review it is determined that the proposed use is not located in a flood hazard area, then the appropriate combined district use (if one exists), or adjacent district use shall apply.

FW FLOODWAY DISTRICT (66,000 Sq. Ft.)

PERMITTED USES

1. Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.
2. Forestry, wildlife areas, and nature preserves.
3. Parks and recreational uses, such as golf courses, driving ranges, and play areas.

SPECIAL EXCEPTIONS (Section 16.05.040)

Special exception uses, that may be permitted in the Floodway (FW) District, shall be the result of review and determination by Natural Resources. A permit for construction in a floodway must be obtained from Natural Resources, and all terms and conditions imposed by Natural Resources will be incorporated in any permit issued by the Plan Commission.

FF FLOODWAY FRINGE DISTRICT

Permitted uses in the Floodway Fringe (FF) District are limited only by the requirements of the combined district (if any exist), by the permitted uses in adjacent districts, or by uses determined by the Plan Commission as being unacceptable due to their public health, obnoxious, offensive, or undesirable nature. Permitted uses will be subject to the requirement of providing a flood protection grade at least two feet above the regulatory flood elevation, as established by Natural Resources.

All construction to be located in the Floodway Fringe District shall be: (1) located immediately adjacent to land which has a flood protection elevation at least two feet above the regulatory flood, or (2) connected by an all-weather roadway suitable for use by local and emergency traffic and equipment. The elevation of the all-weather access road shall be at least two feet above the regulatory flood elevation.

All requirements and conditions of "Flood District(s) and Flood Damage Prevention", including but not limited to "Regulatory Flood Elevation"; "Improvement Location Permit"; "Preventing Increased Damages"; "Protecting Buildings"; and "Other Development Requirements", except Natural Resources approval, shall apply as if required by Natural Resources.

Note: For additional requirements, see "Flood District and Flood Damage Prevention" (Chapter 16.33)

TABLE A (continued)

A-1 AGRICULTURE DISTRICT (66,000 Sq. Ft.)

PERMITTED USES

1. Agriculture (see a. below)
2. Single-Family Dwellings (see b. below)
3. Public & Parochial Schools
4. Public Parks & Playgrounds
5. Churches & Cemeteries
6. Essential Services
7. Accessory Uses
8. Roadside Agriculture Produce Stands
9. Home Child Care

SPECIAL EXCEPTIONS (Section 16.05.040)

1. Commercial Recreational Uses
2. Nursery Schools
3. Hospitals & Clinics
4. Public Utility Structures
5. Swimming Pools (Public)
6. Fire Stations
7. Municipal Buildings & Libraries
8. Single-Family Dwellings (see Section 16.05.040(7))
9. Nursing Homes
10. Mobile Homes required by farmer
11. Feed Mills & Fertilizer Sales
12. Golf Courses
13. Private Clubs & Camps
14. Home Occupations
15. Water & Sewage Treatment Plants
16. Mineral Excavation
17. Sanitary Landfills
18. Veterinary Hospital
19. Two-Family Dwellings
20. Airports and Heliports
21. Animal Kennel
22. Grain Elevator
23. Confined Feeding Operation
24. Recreational Vehicle Park

a. Agriculture, including confined feeding.

b. Single-Family dwellings provided they are occupied by a family engaged in Agriculture; or

Single-Family dwellings provided they are on a lot of record in the Office of the County Recorder or land contracts dated prior to the effective date of the adoption of this Ordinance; or

Single-Family dwellings which have been occupied by a family engaged in agriculture and subsequently divided from the farm; or

Single-Family dwellings provided the parcel has been conveyed or transferred to a member or members of a farming family for the purpose of locating a residence.

TABLE A (continued)

R-R RESIDENTIAL DISTRICT (23,000 Sq. Ft.)

<u>PERMITTED USES</u>	<u>SPECIAL EXCEPTIONS (Section 16.05.040)</u>
1. Single-Family Dwellings	1. Nursery Schools
2. Public & Parochial Schools	2. Hospitals & Clinics
3. Public Parks & Playgrounds	3. Public Utility Structures
4. Churches & Cemeteries	4. Swimming Pools (Public)
5. Essential Services	5. Fire Stations
6. Accessory Uses	6. Municipal Buildings & Libraries
7. Agriculture, except confined feeding operation	7. Private Clubs and Camps
8. Planned Unit Residential Development (Section 16.03.140)	8. Parking Lots
9. Home Child Care	9. Golf Courses
	10. Home Occupations
	11. Nursing Homes
	12. Confined Feeding Operation

R-1 RESIDENTIAL DISTRICT (15,000 Sq. Ft.)

<u>PERMITTED USES</u>	<u>SPECIAL EXCEPTIONS (Section 16.05.040)</u>
1. Single-Family Dwellings	1. Nursery Schools
2. Public & Parochial Schools	2. Hospitals & Clinics
3. Public Parks & Playgrounds	3. Public Utility Structures
4. Churches & Cemeteries	4. Swimming Pools (Public)
5. Essential Services	5. Fire Stations
6. Accessory Uses	6. Municipal Buildings & Libraries
7. Agriculture, except confined feeding operation	7. Private Clubs and Camps
8. Planned Unit Residential Development (Section 16.03.140)	8. Parking Lots
9. Home Child Care	9. Golf Courses
	10. Home Occupations
	11. Nursing Homes

R-2 RESIDENTIAL DISTRICT (10,000 Sq. Ft.)

<u>PERMITTED USES</u>	<u>SPECIAL EXCEPTIONS (Section 16.05.040)</u>
1. Single-Family Dwellings	1. Nursery Schools
2. Public & Parochial Schools	2. Hospitals & Clinics
3. Public Parks & Playgrounds	3. Public Utility Structures
4. Churches	4. Swimming Pools (Public)
5. Essential Services	5. Fire Stations
6. Accessory Uses	6. Municipal Buildings & Libraries
7. Planned Unit Residential Development (Section 16.03.140)	7. Private Clubs
8. Home Child Care	8. Parking Lots
	9. Golf Courses
	10. Home Occupations
	11. Nursing Homes
	12. Cemeteries

TABLE A (continued)

R-3 RESIDENTIAL DISTRICT (7,200 Sq. Ft.)

<u>PERMITTED USES</u>	<u>SPECIAL EXCEPTIONS (Section 16.05.040)</u>
1. Single-Family Dwellings	1. Nursery Schools
2. Two-Family Dwellings	2. Hospitals & Clinics
3. Public & Parochial Schools	3. Public Utility Structures
4. Churches	4. Swimming Pools (Public)
5. Public Parks & Playgrounds	5. Fire Stations
6. Essential Services	6. Nursing Homes
7. Accessory Uses	7. Private Clubs
8. Planned Unit Residential Development (Section 16.03.140)	8. Home Occupations
9. Home Child Care	9. Funeral Homes
	10. Parking Lots
	11. Professional Offices
	12. Museums
	13. Boarding Houses
	14. Municipal Buildings & Libraries
	15. Licensed Day Care Centers

R-4 RESIDENTIAL DISTRICT (7,200 Sq. Ft.)

<u>PERMITTED USES</u>	<u>SPECIAL EXCEPTIONS (Section 16.05.040)</u>
1. Single-Family Dwellings	1. Nursery Schools
2. Two-Family Dwellings	2. Hospitals & Clinics
3. Multiple-Family Dwellings	3. Public Utility Structures
4. Public & Parochial Schools	4. Swimming Pools (Public)
5. Churches	5. Fire Stations
6. Public Parks & Playgrounds	6. Municipal Buildings & Libraries
7. Parking Lots	7. Nursing Homes
8. Boarding Houses	8. Private Clubs
9. Essential Services	9. Home Occupations
10. Accessory Uses	10. Funeral Homes
11. Planned Unit Residential Development (Section 16.03.140)	11. Professional Offices
12. Home Child Care	12. Museums
	13. Licensed Day Care Centers

B-1 BUSINESS DISTRICT (10,000 Sq. Ft.)

<u>PERMITTED USES</u>	<u>SPECIAL EXCEPTIONS (Section 16.05.040)</u>
1. Retail Business	1. Single-Family Dwellings
2. Eating & Drinking Establishments	2. Multiple-Family Dwellings
3. Offices & Banks	3. Automobile Sales, Service & Repair
4. Personal & Professional Services	4. Commercial Recreation
5. Fire Stations & Municipal Buildings	5. Public Utility Structures
6. Libraries & Museums	6. Churches
7. Public Parks & Playgrounds	7. Schools, Public, Parochial & Private
8. Parking Lots	8. Private Clubs
9. Essential Services	9. Drive-In Businesses
10. Accessory Uses	10. Funeral Homes
11. Planned Unit Business Development (Section 16.03.140)	
12. Licensed Day Care Centers	

TABLE A (continued)

B-2 BUSINESS DISTRICT (5,000 Sq. Ft.)

<u>PERMITTED USES</u>	<u>SPECIAL EXCEPTIONS (Section 16.05.040)</u>
1. Retail Business	1. Funeral Homes
2. Eating & Drinking Establishments	2. Theaters
3. Offices & Banks	3. Multiple-Family Dwellings
4. Personal & Professional Services	4. Single-Family Dwellings
5. Fire Stations & Municipal Buildings	5. Automobile Sales, Services & Repair
6. Libraries & Museums	6. Wholesale Business
7. Public Parks & Playgrounds	7. Hotels & Motels
8. Parking Lots	8. Commercial Schools
9. Essential Services	9. Commercial Recreation
10. Accessory Uses	10. Public Utility Structures
11. Planned Unit Business Development (Section 16.03.140)	11. Printing Shops
12. Licensed Day Care Centers	12. Churches
	13. Schools, Public, Parochial & Private
	14. Cleaning & Laundry Plants
	15. Private Clubs
	16. Private Transportation Terminals
	17. Drive-In Business

B-3 BUSINESS DISTRICT (23,000 Sq. Ft.)

<u>PERMITTED USES</u>	<u>SPECIAL EXCEPTIONS (Section 16.05.040)</u>
1. Retail Business	1. Theaters
2. Eating & Drinking Establishments	2. Supply Yards
3. Offices & Banks	3. Commercial Recreation
4. Personal & Professional Services	4. Dairies
5. Fire Stations & Municipal Buildings	5. Single-Family Dwellings
6. Libraries & Museums	6. Multiple-Family Dwellings
7. Public Utility Structures	7. Wholesale Business
8. Parking Lots	8. Printing Shops
9. Public Parks & Playgrounds	9. Warehouses
10. Accessory Uses	10. Commercial Schools
11. Automobile Sales, Service & Repair	11. Churches
12. Cleaning & Laundry Plants	12. Schools, Public, Parochial & Private
13. Private Clubs	13. Hospitals & Clinics
14. Drive-In Business	14. Funeral Homes
15. Veterinary Hospital	15. Farm Implement Sales, Service & Repair
16. Animal Kennel	16. Public Transportation Terminals
17. Planned Unit Business Development (Section 16.03.140)	17. Mobile Home Sales
18. Hotels and Motels (Ord. 1052, 1981)	18. Livestock Auction
19. Licensed Day Care Centers	19. Recreational Vehicle Park

TABLE A (continued)

I-B INDUSTRIAL AND BUSINESS DISTRICT (40,000 Sq. Ft.)

PERMITTED USES

1. Retail Business
2. Light Industrial (702.31)
3. Hotels & Motels
4. Research Laboratories
5. Wholesale Business
6. Warehouses
7. Offices & Banks
8. Personal & Professional Services
9. Accessory Uses
10. Essential Services
11. Automobile Sales, Service & Repair
12. Planned Unit Business Development (Section 16.03.140)

SPECIAL EXCEPTIONS (Section 16.05.040)

1. Restaurants
 2. Theaters
 3. Commercial Recreation
 4. Public Utility Structures
 5. Cleaning & Laundry Plants
 6. Public Transportation Terminals
 7. Supply Yards
 8. Dairies
 9. Hospitals & Clinics
 10. Farm Implement Sales, Service & Repair
 11. Recreational Vehicle Park
 12. Heliports
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I-1 INDUSTRIAL (Light) DISTRICT (702.31) (23,000 Sq. Ft.)

PERMITTED USES

1. Research & Testing Laboratories
2. Offices
3. Warehouses
4. Parking Lots
5. Manufacturing
6. Essential Services
7. Accessory Uses
8. Wholesale Business
9. Public Utility Structures
10. Processing Plant
11. Planned Unit Industrial Development (Section 16.03.140)
12. Sexually Oriented Businesses

SPECIAL EXCEPTIONS (Section 16.05.040)

1. Motels
 2. Restaurants
 3. Truck & Railroad Terminals
 4. Supply Yards
 5. Agriculture
 6. Fire Stations & Municipal Buildings
 7. Water and/or Wastewater Treatment Plants
 8. Heliports
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I-2 INDUSTRIAL (Heavy) DISTRICT (702.30) (40,000 Sq. Ft.)

PERMITTED USES

1. Agriculture
2. Research & Testing Laboratories
3. Offices
4. Warehouses
5. Parking Lots
6. Manufacturing
7. Accessory Uses
8. Wholesale Business
9. Grain Elevators
10. Supply Yards
11. Truck & Railroad Terminals
12. Public Utility Structures
13. Processing Plants
14. Planned Units Industrial Development (Section 16.03.140)
15. Sexually Oriented Businesses

SPECIAL EXCEPTIONS (Section 16.05.040)

1. Restaurants
 2. Stockyards & Slaughterhouses
 3. Fire Stations & Municipal Buildings
 4. Water and/or Wastewater Treatment Plants
 5. Airports
 6. Mineral Excavation
 7. Junk Yards
 8. Bulk Fuel Storage
 9. Concrete Mixing
 10. Manufacture and Processing of Explosive Material
 11. Heliports
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16.02.120 Lot and Yard Requirements. The minimum lot area, minimum width of lot, minimum width of side yards, minimum depth of rear yard and minimum ground floor area per unit for each district shall be shown in Table B.

TABLE B

District	Minimum Lot Area (Sq. Ft)	Minimum Lot Area/Family (Sq. Ft.)	Minimum Lot Width (Feet)	Minimum Aggregate Side Yard (Feet)	Minimum Width Side Yard (Feet)	Minimum Depth Rear Yard (Feet)	Minimum** Living Area (Per Unit) (Sq. Ft.)
FP	66,000	N/A	180	50	20	50	N/A
FW	66,000	N/A	180	50	20	50	N/A
A-1	66,000	33,000	180	50	20	50	1,000
R-R	23,000	23,000	115	30	12	25	1,200
R-1	15,000	15,000	100	25	10	20	1,200
R-2	10,000	10,000	80	20	8	20	1,000
R-3	7,200	4,000	60	14	6	15	900
R-4	7,200	2,000	60	14	6	15	550*** Single Bedroom 750*** 2 or more Bedrooms
B-1	10,000	5,000	100	25	12	20	750***
B-2	5,000	2,000	30	N/A	N/A	N/A	500***
B-3	23,000	4,000	120	40	15	25	750***
I-B	40,000	N/A	120	40	15	25	N/A
I-1	23,000	N/A	150	50	20	25	N/A
I-2	40,000	N/A	150	50	20	25	N/A

** Minimum living area exclusive of open porches, attached garages and accessory structures.

*** Minimum living area shall be 900 square feet for single family dwellings. (Ord. 1993-17, S212, 1993; Ord. 1224, S1, 1985; Ord. 896, S212 (part), 1977)

- (1) All lots not connected to or served by a public or private water system already approved by a state, county or city health authority shall have written approval from the Dubois County Health Department or the Indiana State Board of Health before a location improvement permit shall be issued for any structure requiring water. (Ord. 1993-17, S212.1, 1993; Ord. 896, S212.1, 1977)
- (2) All lots not connected to or served by a public or private sanitary sewer system already approved by a state, county, or city health authority shall have written approval from the Dubois County Health Department or the Indiana State Board of Health before a location improvement permit shall be issued for any structure requiring sewage disposal. (Ord. 1993-17, S212.2, 1993; Ord. 896, S212.2, 1977)

- (3) No portion of any structure, whether open or enclosed, including garages, porches, carports, balconies, roofs, or platforms above normal grade level, shall project into any minimum front, side or rear yard.
- A. Detached garages and storage buildings may be erected within minimum side or rear yards on lots in R-R, R-1, R-2, R-3 and R-4 districts when they shall:
- (a) Be located on lots which adjoin lots where such action represents the prevailing development pattern or were Lots of Record prior to January 1, 1978.
 - (b) Be located on the same lot with a principal single family dwelling structure.
 - (c) Be subordinate to the principal use and shall be a use or activity which is customarily incidental to the principal use.
 - (d) Not materially or substantially change or alter the character or activity of the principal use it serves.
 - (e) Include no use which is unrelated to a residential use.
 - (f) Be located not less than sixty (60) feet from the front lot line and not less than four (4) feet from any rear lot line and not less than two (2) feet from any side lot line.
 - (g) Be located at least ten (10) feet from the principal building.
 - (h) Not be erected nearer than twenty (20) feet to a principal building on an adjoining lot occupied and used exclusively as a private residence.
 - (i) Not exceed sixteen (16) feet in height (Section 16.02.140) or extend above the high point of a roof or parapet wall of the principal building, whichever is the lesser.
 - (j) Not extend into any easements located in side or rear yards. (Ord. 1993-17, S212.3, 212.3A a-j, 1993; Ord. 896 S212.3, 1977)
- (4) Any lot of record existing at the effective date of the Ordinance codified in this Title and then held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its area and width are less than the minimum requirements of this Title. (Ord. 1993-17, S212.4; Ord. 896 S212.4, 1977)

- (5) On any lot or parcel of land in Districts "B-1", "B-3", "I-B", "I-1", and "I-2" which lies adjacent to any "R" District or "A" District with no intervening thoroughfare, no structure, shall be erected or maintained within a minimum side yard distance of forty-eight (48) feet of the boundary line of any unplatted and unimproved parcel of any "R-R" or "R-1" or "A" District, or within thirty-six (36) feet of any "R-2" District, or within twenty-four (24) feet of any "R-3" District, or within twelve (12) feet of any "R-4" District. Rear yard setbacks shall be a minimum of twenty-four (24) feet. (Ord. 1996-16, S1, 1996; Ord. 1993-17, S212.5, 1993; Ord. 896 S212.5, 1977)
- (6) On any lot or parcel of land in Districts "B-1" and "B-3" which lies adjacent to any "R" District or "A" District with no intervening thoroughfare, no structure shall be erected or maintained within a minimum side yard distance of forty-eight (48) feet of the boundary line of any improved unplatted or unimproved platted parcel of any "R-R" or "R-1" or "A" District, or within thirty-six (36) feet of any "R-2" District, or within twenty-four (24) feet of any "R-3" District, or within twelve (12) feet of any "R-4" District. Rear yard setbacks shall be a minimum of twenty-four (24) feet. (Ord. 1996-16, S2, 1996; Ord. 1993-17, S212.6, 1993; Ord. 896 S212.6, 1977)
- (7) On any lot or parcel of land in Districts "I-B", "I-1", and "I-2", no structure shall be erected or maintained within a minimum one hundred (100) foot setback distance beginning at the zone boundary line of any adjacent improved unplatted or unimproved platted parcel of any "R" District or "A" District. (Ord. 1996-16, S3, 1996; Ord. 1993-17, S212.7, 1993; Ord. 896 S212.7, 1977)
- (8) Where a setback distance is required under paragraphs 16.02.120(6) or 16.02.120(7), the Commission shall have the power of approval over the allowed usage within the setback area. The Commission may require appropriate visual barriers or "greenbelts" and may restrict or control traffic patterns or parking within setbacks. No building permit shall be issued for any structure on the affected parcel of land until there is submission and approval of a plan including the protection offered within the setback area. Implementation of the protection aspect of the setback area shall be completed before occupancy. If a "greenbelt" protection is provided, it shall be maintained by the property holder, unless accepted by the Jasper Park and Recreation Board for maintenance. (Ord. 1993-17, S212.8, 1993; Ord. 896 S212.8, 1977)
- (9) Where a district boundary line divides a lot into two districts, it shall be treated as a lot line for purposes of the setback provisions of this Title. (Ord. 1993-17, S212.9, 1993; Ord. 896, S212.9, 1977)
- (10) Every building hereafter erected shall be located on a lot which fronts on a dedicated and accepted street or place. (Ord. 1993-17, S212.10, 1993; Ord. 908 S1(a), 1978; Ord. 896, S212.10, 1977)

16.02.130 Setback Requirements. The minimum front setback (front yard) requirements for each district shall be according to the designation of the thoroughfare (Section 16.07.020(68)) abutting the property as shown in feet in Table C.

TABLE C

DISTRICT	PRINCIPAL ARTERIAL	NOR ARTERIAL	MAJOR COLLECTOR	MINOR COLLECTOR	LOCAL ACCESS	CUL-DE-SAC STREET
FP	50	45	40	35	35	25
FW	50	45	40	35	35	25
A-1	50	45	40	35	35	25
R-R	50	45	40	35	35	25
R-1	50	45	40	35	30	25
R-2	50	45	40	35	30	25
R-3	45	40	35	30	25	20
R-4	45	40	35	30	25	20
B-1	50	45	40	35	35	25
B-2	20	20	20	20	20	20
B-3	50	45	40	40	40	35
I-B	50	45	40	40	40	35
I-1	50	45	40	35	35	25
I-2	50	45	40	40	40	35

(Ord. 1993-17, S213, 1993; Ord. 896, S213, 1977)

- (1) Lots which abut on more than one thoroughfare shall provide the required front yard along every thoroughfare, except alleys. Except that corner lots in any "R-3" or "R-4" District with only two lots between two parallel thoroughfares shall provide one required front yard and two side yards at a minimum of fifteen (15) feet each. (Ord. 1993-17, S213.1, 1993; Ord. 896, S213.1, 1977)
- (2) In Districts "R-R", "R-1", "R-2", "R-3", and "R-4", the setbacks as specified in 16.02.130(1) above is modified to equal the average of the actual then existing setbacks on lots wholly or partially within 300 feet of any lot located on the same side of the street in the same block. (Ord. 1993-17, S213.2, 1993; Ord. 896, S213.2, 1977)
- (3) In any residential district where at least twenty-five (25) percent of the lots in a block are occupied by existing residential structures, the minimum depth of a front yard shall not be any less than the average of the depths of the front yards of the existing residential structures. (Ord. 1993-17, S213.3, 1993; Ord. 896, S213.2, 1977)
- (4) The minimum required front setback (front yard) shall be measured from the thoroughfare

right-of-way boundary to any portion of any structure. (Ord. 1993-17, S213.4, 1993; Ord. 896, S213.4, 1977)

- (5) In order to utilize the setback requirements designated for a Cul-de-Sac Street, the street shall be designed and approved by the Plan Commission, as a permanent Cul-De-Sac Street with no possibility of the street ever being extended. (Ord. 1993-17, S213.5, 1993; Ord. 896, S213.5, 1977)
- (6) In any "B-1", "B-3", "I-B", "I-1" and "I-2" District, the minimum required front setback distance may contain off-street parking, provided, however, that a landscaped buffer of at least ten (10) feet of a required setback distance where it adjoins the front right-of-way line shall be provided. (Ord. 1993-17, S213.6, 1993; Ord. 896, S213.6, 1977)

16.02.140 Height Regulations. Except in the "A-1" and "B-2" districts, no principal structure shall exceed thirty-five (35) feet in height above average ground level and no accessory building shall exceed sixteen (16) feet in height above average ground level unless approved by the Board of Zoning Appeals. In any district the Board may authorize a variance to this height regulation if: (Ord. 1993-17, S214, 1993; Ord. 896, S214, 1977)

- (1) All front and side yard depths are increased one foot for each additional foot of height; or (Ord. 1993-17, S214.1, 1993; Ord. 896, S214.1, 1977)
- (2) The structure is any of the following and does not constitute a hazard to an established airport: television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyors, flag poles, and electrical substation structures. (Ord. 1993-17, S214.2, 1993; Ord. 896, S214.2, 1977)

Chapter 16.03

GENERAL REGULATIONS

Sections:

- 16.03.010 Non-Conforming Uses of Land and Structures.**
- 16.03.020 Accessory Uses and Structures.**
- 16.03.030 Visual Clearance on Corner Lots.**
- 16.03.040 Temporary Uses of Land or Structures.**
- 16.03.050 Off-street Parking and Loading.**
- 16.03.060 Limitations on Signs.**
- 16.03.070 Mobile Homes.**
- 16.03.080 Mobile Home Parks.**
- 16.03.090 Mobile Home Subdivisions.**
- 16.03.100 Recreational Vehicles.**
- 16.03.110 Recreational Vehicle Parks.**
- 16.03.113 Regulations for Location of Sexually Oriented Businesses.**
- 16.03.114 Measurement of Distance.**
- 16.03.115 Regulations Governing Existing Sexually Oriented Businesses.**
- 10.03.116 Exterior Portions of Sexually Oriented Businesses.**
- 16.03.117 Signage and Lighting Regulations.**
- 16.03.118 Sexual Encounter Establishments Prohibited.**
- 16.03.120 Home Occupations.**
- 16.03.130 Performance Standards.**
- 16.03.140 Planned Unit Residential, Business or Industrial Development (As permitted in Table A).**
- 16.03.150 Planned Unit Development (PUD) District.**

16.03.010 Non-Conforming Uses of Land and Structures. If a lawful use of land, a structure, or of a structure and land in combination exists at the effective date of the adoption or amendment of the Ordinance codified in this Title, that would not be permitted in the district under the terms of the Ordinance codified in this Title, that use may be continued subject to the following provisions: (Ord. 1993-17, S301, 1993; Ord. 896, S301, 1977)

- (1) No existing land or structure devoted to a use not permitted by this Title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the land or structure to a use permitted in the district in which it is located, except as permitted by the Board of Zoning Appeals. (Ord. 1993-17, S301.1, 1993; Ord. 896, S301.1, 1977)
- (2) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use shall not be expanded to occupy any land outside such building, except as permitted by the Board of Zoning Appeals. (Ord. 1993-17, S301.2, 1993; Ord. 896, S301.2, 1977)

- (3) Any non-conforming use of land, a structure, or structure and land together, may be changed to another non-conforming use provided that the Board either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accordance with the provisions of this Title. (Ord. 1993-17, S301.3, 1993; Ord. 896 S301.3, 1977)
- (4) Any land, structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the non-conforming use may not thereafter be resumed. (Ord. 1993-17, S301.4, 1993; Ord. 896, S301.4, 1977)
- (5) When a non-conforming use of land, a structure or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months, the structure or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located, except as permitted by the Board of Zoning Appeals. (Ord. 1993-17, S301.5, 1993; Ord. 896, S301.5, 1977)
- (6) Where non-conforming structure use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. (Ord. 1993-17, S301.6, 1993; Ord. 896 S301.6, 1977)
- (7) Any non-conforming structure damaged by fire, flood, explosion, or other casualty may be reconstructed and used as before if such reconstruction is undertaken within 18 months of such casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before such casualty. This provision may be modified by the Board of Zoning Appeals. (Ord. 1993-17, S301.7, 1993; Ord. 896, S301.7, 1977)

16.03.020 Accessory Uses and Structures.

- (1) Fences, hedges, walks, driveways, curbs, retaining walls, lattice-work screens, trees, flowers, plants, mail boxes, nameplates, lamp posts, bird baths, bird houses, benches and landscaping of a like nature are permitted in any required front, side, or rear yard provided they do not violate the requirements of Section 16.03.030. (Ord. 1993-17, S302.1, 1993; Ord. 896, S302.1, 1977)
- (2) Migrant housing facilities of all types may be permitted as accessory uses in conjunction with an agricultural operation provided that the housing is not occupied more than six months in every calendar year, that the migrant housing conforms to all applicable County and State requirements, and is located at least 200 feet from a residential lot or district boundary line. (Ord. 1993-17, S302.2, 1993; Ord. 896, S302.2, 1977)
- (3) A private swimming pool shall be permitted as an accessory use if it is surrounded by a wall or fence so as to prevent uncontrolled access. (Ord. 1993-17, S302.3, 1993; Ord. 896, S302.3, 1977)

16.03.030 Visual Clearance on Corner Lots. On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and a half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets, in the area bounded by the street right-of-way lines of the corner lot and a line joining two points on the street right-of-way lines thirty-five (35) feet from the point of their intersection. (Ord. 1993-17, S303, 1993; Ord. 896, S303, 1977)

16.03.040 Temporary Uses of Land or Structures. A permit for a temporary structure or land use such as carnivals, revival meetings, construction facilities, seasonal sales, emergencies, or uses of a similar nature (not including mobile homes) may be issued by the Zoning Administrator provided the following conditions are adhered to: (Ord. 1993-17, S304, 1993; Ord. 896, S304, 1977)

- (1) The use is, in fact, temporary and will terminate at a specific time. (Ord. 1993-17, S304.1, 1993; Ord. 896, S304.1, 1977)
- (2) The proposed site is of adequate size to accommodate the use without creating congestion in the streets or inadequate circulation for fire and other emergency vehicles. (Ord. 1993-17, S304.2, 1993; Ord. 896, S304.2, 1977)
- (3) Adequate parking, both off-street and on-street, is available within 1,400 feet of the proposed site. (Ord. 1993-17, S304.3, 1993; Ord. 896, S304.3, 1977)
- (4) Outdoor lighting will be shielded or directed away from adjoining residential property and streets. (Ord. 1993-17, S304.4, 1993; Ord. 896, S304.4, 1977)
- (5) The sign regulations of Section 16.03.060 shall be observed. (Ord. 1993-17, S304.5, 1993; Ord. 896, S304.5, 1977)
- (6) Neighboring uses are not adversely affected. (Ord. 1993-17, S304.6, 1993; Ord. 896, S304.5, 1977)

16.03.050 Off-Street Parking and Loading. The off-street parking and loading provisions of this Ordinance shall apply as follows: (Ord. 1993-17, S305, 1993; Ord. 896, S305, 1977)

- (1) Except in the B-2 District, all buildings and structures erected, and all uses of land established after the adoption of this Ordinance shall be provided with off-street parking and loading spaces set forth in this section. (Ord. 1993-17, S305.1, 1993; Ord. 896, S305.1, 1977)
- (2) The provisions of this section, except where there is a change of use, shall not apply to any existing building or structure. (Ord. 1993-17, S305.2, 1993; Ord. 896, S305.2, 1977)
- (3) Whenever a building or structure constructed before the effective date of the Ordinance codified in this section is changed or enlarged, in floor area, number of employees, number of housing units, seating capacity, or otherwise to create a need for an increase in the number of parking spaces, additional parking spaces shall be provided on the basis of the

- enlargement or change, provided, whenever a building or structure existing prior to the effective date of the Ordinance codified in this section is enlarged to the extent of fifty (50) percent or more in floor area, number of employees, number of housing units, seating capacity or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth herein. (Ord. 1993-17, S305.3, 1993; Ord. 896, S305.3, 1977)
- (4) Accessory off-street parking facilities in existence on the effective date of the Ordinance codified and located on the same lot as the building or use served shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new building or use under the provisions of this Title. (Ord. 1993-17, S305.4, 1993; Ord. 896, S305.4, 1977)
 - (5) The following regulations shall govern the location of off-street parking spaces and areas:
 - (a) Parking spaces for all detached residential uses shall be located on the same lot as the use which they are intended to serve.
 - (b) Parking spaces for commercial, industrial, or institutional uses shall be located not more than seven hundred (700) feet from the principal use. Parking lots farther than seven hundred (700) feet from the principal use shall be subject to approval by the Board.
 - (c) Parking spaces for apartments, dormitories, or similar residential uses shall be located not more than three hundred (300) feet from the principal use. (Ord. 1993-17, S305.5, a, b, c, 1993; Ord. 896, S305.5, a, b, c, 1977)
 - (6) Off-street parking spaces may be located in any yard, except for the required front yard in any "R-R", "R-1", "R-2", or "R-3" district. (Ord. 1993-17, S305.6, 1993; Ord. 896, S305.6, 1977)
 - (7) A parking space shall have a minimum rectangular dimension of not less than nine (9) feet in width and twenty (20) feet in length for ninety (90) degree parking, nine (9) feet in width and twenty-three (23) feet in length for parallel parking, ten (10) feet in width and twenty (20) feet in length for sixty (60) degree parking, and ten (10) feet in width and twenty (20) feet in length for forty-five (45) degree parking. All dimensions shall be exclusive of driveways, aisles, and other circulation areas. (Ord. 1993-17, S305.7, 1993; Ord. 908 S1(b), 1978; Ord. 896, S305.7, 1977)
 - (8) Driveways (aisles) serving individual parking spaces shall not be less than twenty-five (25) feet wide for parallel parking, seventeen and one-half (17½) feet for sixty (60) degree parking, and thirteen (13) feet for forty-five (45) degree parking. These dimensions do not include any parking spaces. (Ord. 1993-17, S305.8, 1993; Ord. 908 S1(c), 1978; Ord. 896, S305.8, 1977)

- (9) Two or more non-residential uses may jointly provide any use parking spaces when their hours of operation do not normally overlap, providing that a written agreement approved by the Board of Zoning Appeals shall be filed with the application for a permit. (Ord. 1993-17, S305.9, 1993; Ord. 896, S305.9, 1977)
- (10) The required off-street parking spaces for any number of separate buildings, structures, or uses may be provided collectively on one lot providing the total number of such spaces shall not be less than the sum of the requirements for the various individual buildings, structures, or uses computed separately in accordance with Section 16.03.050(14). (Ord. 1993-17, S305.10, 1993; Ord. 896, S305.10, 1977)
- (11) When two or more uses are located within the same building or structure, off-street parking spaces equal in number to the sum of separate requirements for each use shall be provided. (Ord. 1993-17, S305.11, 1993; Ord. 896, S305.11, 1977)
- (12) All off-street parking spaces required by the Ordinance codified in this Title shall be used only for the parking of vehicles of occupants, patrons, visitors, or employees and shall not be used for any kind of loading, sales, servicing, or continuous storage of a vehicle for more than forty-eight (48) hours. (Ord. 1993-17, S305.12, 1993; Ord. 896, S305.12, 1977)
- (13) Every parcel of land hereafter used as a public or private off-street parking area which accommodates five (5) or more vehicles shall be developed and maintained in accordance with the following requirements:
 - (a) Each off-street parking space shall have direct access to an aisle or driveway and all off-street parking areas shall have vehicular access to a street or alley so designed to minimize interference with pedestrian and traffic movement.
 - (b) All off-street parking, including access drives and aisles, shall be paved with bituminous, concrete, or other all-weather, dust-proof surfacing and shall be provided with bumper guards or barrier curbs where needed. A crushed stone or gravel surface may be used for a period not exceeding one (1) year after the parking area is opened for use where ground conditions are not immediately suitable for permanent surfacing.
 - (c) All open off-street parking areas shall be effectively screened on each side adjoining or fronting on any property situated in a Residential District or any institutional premises by a wall, fence, or densely planted compact hedge, not less than five (5) feet nor more than eight (8) feet in height. (Ord. 1993-17, S305.13 a, b, c, 1993; Ord. 896, S305.13 a, b, c, 1977)
- (14) For the purpose of this Ordinance, the off-street parking space requirements in Table D shall apply. (Ord. 1993-17, S305.14, 1993; Ord. 896, S305.14, 1977)

TABLE D

OFF-STREET PARKING SPACE REQUIREMENTS

RESIDENTIAL

<u>TYPE OF USE</u>	<u>PARKING SPACES REQUIRED</u>
Single-family or two-family dwelling.	Two for each unit.
Apartment hotels, apartments, or multi-family dwellings	Two for each unit.
Boarding house, rooming house, dormitories, and fraternity houses which have sleeping rooms.	One and one-half (1 ½) for each sleeping room or 1 ½ for each permanent occupant.
Mobile Homes	Two for each unit.

COMMERCIAL (EXCEPT IN THE "B-2" DISTRICT)

<u>TYPE OF USE</u>	<u>PARKING SPACES REQUIRED</u>
Automobile service stations which also provide repair.	One for each two gasoline pumps and two for each service bay.
Hotel, motels. *	One per each sleeping room plus one space for each employee on duty.
Funeral parlors, mortuaries and similar type uses.	One for each 50 sq. ft. of floor area in slumber rooms, parlors, or service rooms.
Dining rooms, restaurants, taverns, night clubs, etc.	One for each 3-person capacity as indicated on State Fire Marshall Permit, plus one for each employee on duty.
Bowling Alleys.	Four for each alley or lane plus one additional space for each 100 sq. ft. of the area used for restaurant, cocktail lounge, or similar use.
Dance Floors, skating rinks.	One for each 100 sq. ft. of floor area used for the activity.
Outdoor swimming pools (Public).	One for each 5 persons capacity.
Clubs.	One for each 4 seats or one for each 30 sq. ft. floor area used for seating purposes whichever is greater.
Auditoriums, sports arenas, theaters, and similar uses.	One for each 4 seats.
Retail stores.	One for each 250 sq. ft. of floor area.
Banks, financial institutions and similar uses.	One for each 250 sq. ft. of floor area.
Offices, public or professional administration, or service buildings.	One for each 400 sq. ft. of floor area.
All other types of business or commercial uses permitted in any commercial district.	One for each 300 sq. ft. of floor area.

* Lodging facilities with banquet facilities over 200 shall have additional requirements under "Dining rooms, restaurants, taverns, night clubs, etc."

INSTITUTIONAL

<u>TYPE OF USE</u>	<u>PARKING SPACES REQUIRED</u>
Churches and other place of religious assembly.	One for each 5 seats.
Hospitals.	One for each bed.
Sanitariums, homes for the aged, nursing homes, children's homes, asylums, and similar uses.	One for each 2 beds.
Medical and dental clinics.	One for every 200 sq. ft. floor area of examination, treating room, office and waiting room.
Libraries, museums, and art galleries.	One for each 400 sq. ft. floor area.

SCHOOLS, (PUBLIC, PAROCHIAL, OR PRIVATE)

<u>TYPE OF USE</u>	<u>PARKING SPACES REQUIRED</u>
Elementary and junior high schools.	Two for each classroom and one for every eight seats in auditorium or assembly halls.
High Schools.	One for every ten students and one for each teacher and employee.
Business, technical and trade schools.	One for each two students.
Colleges, universities.	One for each four students.
Kindergarten, child care centers, nursery schools, and similar uses.	Two for each classroom but not less than six for the building.

INDUSTRIAL

<u>TYPE OF USE</u>	<u>PARKING SPACES REQUIRED</u>
All types of manufacturing, storage, and wholesale uses permitted in any industrial district.	One for every 2 employees (on the largest shift for which the building is designed) plus one for each motor vehicle in the business.
Cartage, express, parcel delivery and freight terminals.	One for every 2 employees (on the largest shift for which the building is designed) and one for each motor vehicle maintained on the premises.

OTHER

Parking spaces for other permitted uses or special exceptions not listed in Article shall be determined by the Board. (Ord. 1993-17, S305.14, TABLE D, 1993; Ord. 896, S305.14, 1977)

- (15) Every Commercial (except in a B-2 District), Industrial or Public Use requiring the receipt or distribution by vehicles of materials or merchandise shall provide off-street loading berth(s) of a size and arrangement appropriate for the types of vehicles utilizing this space. In no case will loading or unloading be permitted within public rights-of-way. A loading space shall have minimum dimensions of not less than twelve (12) feet in width, fifty (50) feet in length, exclusive of driveways, aisles, and other circulation areas, and a clearance height of not less than fifteen (15) feet. (Ord. 1993-17, S305.15, 1993; Ord. 896, S305.15, 1977)
- (16) All required loading berths shall be located on the same lot as the use served. No permitted or required loading berth shall be located within forty (40) feet of the nearest point of intersection of any two streets. No loading berth shall be located in a required front yard. (Ord. 1993-17, S305.16, 1993; Ord. 896, S305.16, 1977)
- (17) All open off-street loading berths shall be improved with a cement concrete pavement or a comparable hard surface pavement. (Ord. 1993-17, S305.17, 1993; Ord. 896, S305.17, 1977)
- (18) Except for vehicle storage lots, multiple level parking structures and parking lots having a paved area no wider than a double-loaded aisle no more than sixty-five (65) feet in width, all parking areas in all zoning districts shall include the following minimum landscape requirements:
 - (a) Not less than six percent (6%) of the interior of the parking lot shall be landscaped - the interior of the a parking lot being calculated by multiplying the number of parking spaces by 270 square feet. Plantings located along the perimeter of a parking lot shall not be considered as part of the interior landscaping requirement.
 - (b) Required landscaping areas shall be located in planting islands or median strips with interior dimensions of not less than ten (10) feet in width and sixteen (16) feet in length.
 - (c) Landscaping areas shall be reasonably dispersed throughout the parking lot.
 - (d) The primary landscaping materials used shall be deciduous shade trees with a minimum of two and one half (2½) inch caliper, as measured 6 inches above the ground, and a minimum of 10 to 12 feet in height. (Ord. 1993-17, S305.18, 1993)

16.03.060 Limitations on Signs. No sign shall be permitted in any district except as herein provided: (Ord. 1993-17, S306, 1993; Ord. 896, S306, 1977)

- (1) General Requirements:
 - (a) No sign shall be placed in any public right-of-way except publicly-owned signs, such as traffic control signs and directional signs. Signs directing and guiding traffic and parking on private property but bearing no advertising matter shall be

permitted on any property. For safety purposes, information signs shall not exceed a total of four (4) square feet in area and shall not exceed thirty (30) inches in height. (Ordinance No. 1994-37)

- (b) No building wall shall be used for display of advertising except that pertaining to the use carried on within such building.
 - (c) Temporary signs, other than temporary business signs, i.e. political signs, election signs, construction and contractor signs, garage sale signs, and real estate for sale signs, etc., may be erected and shall be promptly removed when the function has been fulfilled.
 - (d) No portable signs, except those listed in 16.03.060(1)(c) above, shall be allowed in any district.
 - (e) Lighting used to illuminate a sign shall be shielded from residential properties and shall not glare into any thoroughfare to be a hazard or distraction to traffic.
 - (f) In applications of high intensity lighting sources, or spot lights, no lighting fixture shall be located or positioned so that an observer standing on adjacent properties, or in a thoroughfare right-of-way, can see either the lamp bulb or the reflector source behind the lamp.
 - (g) This section pertains to outdoor lighting and advertising sign illumination. Public right-of-way lighting is excluded from this resolution, but it is recommended that these concepts be taken into account in street lighting as much as possible.
 - (h) No sign advertising a commercial enterprise shall be permitted in a district zoned residential unless approved by the Board of Zoning Appeals. (Ord. 2005-43, S1, S2, Nov. 23, 2005) (Ord. 1994-37, part S1, 1994) (Ord. 1993-17, S306.1 a-h, 1993) (Ord. 1990-9, S306.1 a-e, 1990) (Ord. 896, S306.1 a-e, 1977)
- (2) Signs Permitted in all Districts except Business and Industrial Districts: The following signs shall be permitted in all districts except Business and Industrial districts:
- (a) All signs, with the exception of those listed in 16.03.060(2)(d) below, shall not exceed four square feet and shall not exceed sixty (60) inches in height.
 - (b) Professional name plates and signs shall not exceed four (4) square feet in area and must be attached to the building in which the professional maintains his/her business.
 - (c) Signs denoting the name and address of the occupant of the premises shall not exceed four (4) square feet in area.

- (d) Signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs, societies, or schools shall not exceed twenty-four (24) square feet in area and shall be located on the premises of such institution (Ord. 2005-43, S4, Nov. 23, 2005) (Ord. 1993-17, S306.2 a-d, 1993; Ord. 1991-12, S1, 1991; Ord. 1990-9, S306.2 a-e, 1990; Ord. 896, S306.2 a-e, 1977)
- (3) **Business Signs:** Business signs shall be permitted in connection with any legal business or industry in a business or industrial district when located on the same premises, and if they meet the following requirements:
- (a) A temporary sign may be used in lieu of permanent sign(s) to promote the establishment of a new business or the name of the architects, builders or contractors of a new or remodeled building. A permit shall be required before placement of such sign. A permit shall be valid for six (6) consecutive months, and may be renewed on a case-by-case basis after that time. A temporary sign or banner promoting special events will be allowed for no more than thirty (30) days at a time, no more than twice a year. A permit shall be required before placement of a temporary sign or banner.
- (b) The maximum area of a free standing sign, or any sign attached to a building at an angle in a B-1, B-2, B-3, I-B, 1-1, and 1-2 Zone (District) shall not exceed eighty (80) square feet, and a reader board may be added which shall not exceed thirty (30) square feet as viewed from any angle. The minimum height of any pole sign from the road is fourteen (14) feet, with the maximum height not to exceed thirty-five (35) feet.

Attached signs, painted or mounted "flat" against the building unit shall not have an aggregate size greater than one (1) square foot for each foot of width of the building, not to exceed 100 square feet if it is located more than fifty (50) feet from the road right of way, and then two (2) square feet for each foot of width will be allowed, not to exceed 200 square feet in aggregate size. (Ordinance No. 1994-8)

Instead of installing a sign as provided in the previous paragraphs, a ground sign may be installed which shall not exceed a height of seven (7) feet from ground level and a maximum sign area of fifty (50) square feet including supports. (Ordinance No. 1994-37)

1. If an attached wall sign consists of a boxed display, then the total area of the sign must be used against the signable area.
2. If an attached wall sign consists of individual cutout characters, letters, or numbers, then the total area of an imaginary rectangle contiguous to and surrounding each character, letter, or number must be used against the signable area.
3. Any sign existing at the time of the effective date of this ordinance removed

for any reason other than from a natural disaster shall be reconstructed or restored in accordance with this ordinance. (Ordinance No. 1994-8)

- (c) Signs shall not contain information or advertising for any product not sold or produced on the premises, unless the sign meets the following criteria:
 - 1. Located at a public owned Recreation or athletic facility.
 - 2. Advertisement is placed on areas that are part of the facility i.e. (scoreboard, fences, etc.)
 - 3. The advertisement is visible only to the participants or spectators at the facility and may not be seen by the general public passing by or living in the area surrounded by the facility.
 - 4. All signs shall be approved either specifically or in general by the Jasper City Plan Commission prior to the erection or placement thereof. (Ord. 1995-14, S1, 1995)
- (d) Signs shall not project over or be placed in public rights-of-way. (Ord. 2005-43, S5 & 6, Nov. 23, 2005) (Ord. 1995-14, S1, 1995; Ord. 1994-37, S1 part, 1994; Ord. 1994-8, S306.3b; Ord. 1993-14, S306.3 a-e, 1993; Ord. 1990-9, S306.3 a-e, 1990; Ord. 896 S306.3, 1977)
- (4) Outdoor Advertising Signs: In the B-3 and I-2 Districts advertising signs shall be permitted if they meet the following requirements:
 - (a) The sign shall not exceed 300 square feet in area nor 25 feet in length, nor 12 feet in height. Total height of the sign from ground level shall not exceed twenty (20) feet.
 - (b) The sign shall not be located closer than 250 feet from a road intersection except for signs which are less than twelve (12) square feet in area.
 - (c) The sign shall not be located in a location which would interfere with roadway horizontal sight distances.
 - (d) Any sign over 24 square feet shall not be located closer than 500 feet to any residential use, school, church, park, playground, or similar use. (Ord. 1993-17, S306.4, 1993; Ord. 896, S306.4, 1977)
- (5) Permission for Signs: No sign shall be placed on private or public property without the written consent of the owner or agent thereof. (Ord. 1993-17, S306.5, 1993; Ord. 896, S306.5, 1977)
- (6) Maintenance of signs: Every sign shall be maintained in a safe, presentable, and good structural condition at all times, including the replacement of defective parts, painting,

repainting, cleaning, and other acts required for maintenance of the sign. Compliance shall be required with all standards of this chapter. If the sign is not made to comply with adequate safety standards, and/or not kept in a presentable or good structural condition, its removal will be required, as follows: The Administrator shall provide a ten-day written notice to the owner of a sign in violation, to either remove the sign or to bring it into compliance. Upon failure to comply with this notice, the Administrator may remove the sign at cost to the owner of the sign and/or issue a notice of violation. The Administrator or his or her designee(s) may remove a sign immediately, at the cost of the owner, and without notice if, in his or her opinion, the condition of the sign is such as to present an immediate threat to the safety of the public. (Ord. 2005-43, S7, Nov. 23, 2005)

- (7) Abandonment of signs: A sign shall be removed by the owner or lessee or the premises upon which the sign is located when the business which it advertised is no longer conducted on the premises or when the event which the sign advertises or speaks to has been held. If the owner or lessee fails to remove it, the Administrator shall give the owner three (3) days written notice to remove it. Upon failure to comply with this notice, the Administrator or his or her designee(s) may remove the sign at cost to the owner of the sign and/or issue a notice of violation. (Ord. 2005-43, S8, Nov. 23, 2005)

16.03.070 Mobile Homes. Wherever Mobile Homes are permitted, individually or in Mobile Home Parks or Subdivisions, they shall comply with the following minimum requirements:

- (1) A mobile home shall have a minimum ground floor area of 350 square feet exclusive of porches, garages, or accessory structures. (Ord. 1993-17, S307.1, 1993; Ord. 896, S307.1, 1977)
- (2) Each mobile home shall be supported under the I-beams and shall be skirted on all sides with a permanently attached, substantial material, such as painted metal, fiberglass, concrete, or masonry, that will not detract from the appearance of the mobile home. (Ord. 1993-17, S307.2, 1993; Ord. 896, S307.2, 1977)

16.03.080 Mobile Home Parks. In any district in which Mobile Home Parks are permitted the following minimum requirements shall apply:

- (1) Conditions of soil, groundwater level, drainage, geologic structures and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence, sudden flooding or serve erosion. (Ord. 1993-17, S308.1, 1993; Ord. 896, S308.1, 1977)
- (2) The minimum area of a Mobile Home Park shall be five (5) acres. (Ord. 1993-17, S308.2, 1993; Ord. 896, S308.2, 1977)
- (3) The density of a park shall not exceed eight (8) mobile homes per acre of gross site area. (Ord. 1993-17, S308.3, 1993; Ord. 896, S308.3, 1977)

- (4) No mobile home and enclosed accessory structures designed for living space shall be located closer than twenty (20) feet from any other mobile home, permanent building, or structure within the Mobile Home Park. (Ord. 1993-17, S308.4, 1993; Ord. 896, S308.4, 1977)
- (5) Mobile Home Parks shall have direct access to an adequate public thoroughfare with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of mobile homes into and out of the park. (Ord. 1993-17, S308.5, 1993; Ord. 896, S308.5, 1977)
- (6) All mobile homes and structures shall meet all set-back and yard requirements of this Ordinance. (Ord. 1993-17, S308.6, 1993; Ord. 896, S308.6, 1977)
- (7) Internal Mobile Home Park streets, if dedicated to public use, shall meet the minimum standards for design and construction as required in the Subdivision Control Ordinance. Whether public or not, no street name shall duplicate any other street name in the County. (Ord. 1993-17, S308.7, 1993; Ord. 896, S308.7, 1977)
- (8) Each park shall provide a recreational area or areas equal in size to at least eight (8) percent of the area of the park, generally in a central location. Streets, parking areas, and park service facility areas shall not be included in the required recreational area. (Ord. 1993-17, S308.8, 1993; Ord. 896, S308.8, 1977)
- (9) In other than Business Districts, coin-operated laundries, laundry and dry-cleaning pickup stations and other commercial convenience establishments may be permitted in mobile home parks provided:
 - (a) They are subordinate to the residential character of the park;
 - (b) They are located, designed and intended to serve only the needs of the persons living in the park;
 - (c) The establishments and the parking areas related to their use shall not occupy more than ten (10) percent of the total area of the park;
 - (d) The establishments shall present no visible evidence of their commercial nature to areas outside the park. (Ord. 1993-17, S308.9 a-d, 1993; Ord. 896, S308.9 a-d, 1977)
- (10) Each park shall provide either one or more central waterproof structures available to all mobile home sites or a single waterproof structure for each mobile home site suitable for storage of goods and the usual effects of persons occupying the park. (Ord. 1993-17, S308.10, 1993; Ord. 896, S308.9, 1977)
- (11) Each mobile home site shall be provided with a stand consisting of a solid concrete slab, two concrete ribbons, or concrete pillars, of a thickness and size adequate to support the

maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons or pillars shall be filled with a layer of crushed rock or stone. (Ord. 1993-17, S308.11, 1993; Ord. 896, S308.11, 1977)

- (12) All exterior park lights shall be so located and shielded as to prevent direct illumination of any areas outside the park. (Ord. 1993-17, S308.12, 1993; Ord. 896, S308.12, 1977)

16.03.090 Mobile Home Subdivisions. In any district in which Mobile Home Parks are permitted as a special exception, Mobile Home Subdivisions may also be permitted and the following minimum requirements shall apply:

- (1) The procedures, design standards, and required improvements of the Subdivision Control Ordinance shall be adhered to. (Ord. 1993-17, S309.1, 1993; Ord. 896, S309.1, 1977)
- (2) The minimum area of a Mobile Home Subdivision shall be five (5) acres. (Ord. 1993-17, S309.2, 1993; Ord. 896, S309.2, 1977)

16.03.100 Recreational Vehicles. Recreational vehicles shall not be occupied in any location other than an approved Recreational Vehicle Park. (Ord. 1993-17, S310, 1993; Ord. 896, S310, 1977)

16.03.110 Recreational Vehicle Parks. In any district in which Recreational Vehicle Parks are permitted the following requirements shall apply:

- (1) Recreational Vehicle Parks shall have direct access to a public highway or road with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of recreational vehicles into and out of the park. (Ord. 1993-17, S311.1, 1993; Ord. 896, S311.1, 1977)
- (2) Conditions of soil, groundwater level, drainage, geologic structure and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence sudden flooding or serve erosion. (Ord. 1993-17, S311.2, 1993; Ord. 896, S311.2, 1977)
- (3) The density of a park shall not exceed fifteen (15) recreational vehicle spaces per acre of gross site area. (Ord. 1993-17, S311.3, 1993; Ord. 896, S311.3, 1977)
- (4) The minimum area of a Recreational Vehicle Park shall be five (5) acres. (Ord. 1993-17, S311.4, 1993; Ord. 896, S311.4, 1977)
- (5) Recreational vehicles shall be separated from each other and from other park buildings or structures by at least ten (10) feet. (Ord. 1993-17, S311.5, 1993; Ord. 896, S311.5, 1977)
- (6) All recreational vehicles and structures shall comply with the required minimum set-back and yard provisions of this Ordinance.

- (a) Where the boundary line of a recreational vehicle park coincides with that of a residential district other than along a thoroughfare or alley, a yard separation of at least twenty-five (25) feet in width shall be required. (Ord. 1993-17, S311.6, 1993; Ord. 896, S311.6, 1977)
- (7) At least one centrally located recreation area equal in size to eight (8) percent of the gross park area shall be provided in each recreational vehicle park. Streets, parking area and park service facility areas shall not be included in the required recreational area. (Ord. 1993-17, S311.7, 1993; Ord. 896, S311.7, 1977)
- (8) In addition to Business District locations, food stores, restaurants, sporting goods, laundromats, dry-cleaning pickup stations and similar convenience and service shops may be permitted in recreational vehicle parks containing 50 or more spaces provided:
 - (a) Such shops and the parking area required by the use shall not occupy more than ten (10) percent of the total area of the park.
 - (b) The shops shall be primarily for the use of the occupants of the park.
 - (c) Such shops shall be so located or designed within the park to present no visible evidence of their commercial nature to persons outside the park. (Ord. 1993-17, S311.8, 1993; Ord. 896, S311.8, 1977)
- (9) Management offices and storage, playground and picnic equipment, sanitation and laundry facilities, informational signs and other structures customarily incidental to a Recreational Vehicle Park shall be permitted as accessory uses. (Ord. 1993-17, S311.9, 1993; Ord. 896, S311.9, 1977)

16.03.113 Regulations for Location of Sexually Oriented Businesses. The establishment of a sexually oriented business shall be permitted only in the specified I-1, Industrial (Light) District, and I-2, Industrial (Heavy) District, zones; provided, however, that no person shall cause or permit the establishment of sexually oriented businesses, as defined in Section 16.07.020, within 500 feet of another sexually oriented business; religious institution; school; boys or girls club, or similar existing youth organization; or public park or recreation area; or public building; or residential district; or residential use (the foregoing uses are hereinafter collectively referred to as "sensitive uses").

Notwithstanding any other provision herein to the contrary, sexually oriented businesses shall be considered permitted uses in the zoning districts where sexually oriented businesses are allowed to locate under this chapter, and shall not be subject to the standards applied to variances and special exceptions in those zoning districts.

In the event that a business meets the definition of a Sexually Oriented Business under this Title, but may also be considered another type of business under this Title or other applicable section of the Municipal Code of the City of Jasper, the rules and regulations pertaining to Sexually Oriented Businesses shall supersede and take precedence over the rules and regulations for any other type of business and said business shall be required to meet Sexually Oriented Business rules and regulations,

including, but not limited to, locating in an "I-1" or "I-2" Zoning District. (Ord. 2004-8, S4, Apr. 21, 2004)

16.03.114 Measurement of Distance. For the purpose of determining the distance requirements set forth in Section 16.03.113, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexually oriented business and any religious institution; school; boys or girls club, or similar existing youth organization; or public park or recreation area; or public building; or residential district; or residential use (hereinafter "sensitive uses") shall be measured from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted, to the nearest property line of the premises of the sensitive use. The City of Jasper may require that the owner or operator of a sexually oriented business certify all distance measurements by a land surveyor registered by the State of Indiana. (Ord. 2004-8, S5, Apr. 21, 2004)

16.03.115 Regulations Governing Existing Sexually Oriented Businesses. Any sexually oriented businesses lawfully operating prior to the effective date of this ordinance that is in violation of this chapter shall be deemed a nonconforming use and subject to the provisions of Section 16.03.010, any other applicable City of Jasper Code sections, and applicable state law governing nonconforming uses. Such non-conforming uses shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 500 feet of each other and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at the particular location is the conforming use and the later established business is nonconforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a religious institution; school; boys or girls club, or similar existing youth organization; or public park or recreation area; or public building; or residential district; or residential use within 500 feet of the sexually oriented business. (Ord. 2004-8, S6, Apr. 21, 2004)

16.03.116 Exterior Portions of Sexually Oriented Businesses. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit is required or has been issued for said business under this Ordinance or any other ordinances of the City of Jasper, to display or otherwise exhibit the materials and/or performances at such sexually oriented business in any advertising or any portion of the interior premises which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.

It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit is required or has been issued for said business under this Ordinance or any other ordinances of the City of Jasper, to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance. (Ord. 2004-8, S7, Apr. 21, 2004)

16.03.117 Signage and Lighting Regulations. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit is required or has been issued for said business under this Ordinance or any other ordinance of the City of Jasper, to advertise the presentation

of any activity prohibited by any applicable state statute or local ordinance.

It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit is required or has been issued for said business under this Ordinance or any other ordinance of the City of Jasper, to erect, construct or maintain any sign for the sexually oriented business other than as permitted by the City of Jasper Zoning Code or other applicable Code sections. All off-street parking areas and premise entries of the sexually oriented business shall be illuminated from dusk to dawn with a lighting system to provide for visual inspection or video monitoring to prohibit loitering and in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the sketch or diagram of the premises, if such a sketch or diagram is required. (Ord. 2004-8, S8, Apr. 21, 2004)

16.03.118 Sexual Encounter Establishments Prohibited. No person shall operate a sexual encounter establishment as defined in this chapter. Operation of such an establishment shall constitute a nuisance per se and will additionally result in imposition of penalties for violation of this chapter (Ord. 2004-8, S9, Apr. 21, 2004)

16.03.120 Home Occupations. A Home Occupation may be permitted as a special exception if it complies with the requirements of this section.

- (1) The Home Occupation shall be carried on by a member of the family residing in the dwelling unit with not more than one employee who is not part of the family. (Ord. 1993-17, S312.1, 1993; Ord. 896, S312.1, 1977)
- (2) The Home Occupation shall be carried on wholly within the principal or accessory structures. (Ord. 1993-17, S312.2, 1993; Ord. 896, S312.2, 1977)
- (3) Exterior displays or signs other than those permitted under Section 16.03.060, exterior storage of materials, and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted. (Ord. 1993-17, S312.3, 1993; Ord. 896, S312.3, 1977)
- (4) Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be produced. (Ord. 1993-17, S312.4, 1993; Ord. 896, S312.4, 1977)
- (5) The Home Occupation shall not create any traffic or parking problems and off-street parking shall be provided in accordance with Section 16.03.050. (Ord. 1993-17, S312.5, 1993; Ord. 896, S312.5, 1977)
- (6) A Day Care Home, as herein defined, or other use of a residential home which requires a license from the State, shall be considered a Home Occupation. (Ord. 1993-17, S312.6, 1993)
- (7) The home occupation shall not exceed 25 percent of the floor area of the primary structure and 50 percent of an accessory building on the premises. Home child care is exempted from this requirement. (Ord. 1993-17, S312.7, 1993)

- (8) Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation. (Ord. 1993-17, S312.8, 1993)
- (9) There shall be no exterior display or storage of goods on said premises. (Ord. 1993-17, S312.9, 1993)
- (10) Home occupations as special exceptions granted shall not apply to the next occupant or owner of property for which original use was granted. The home occupation for a residential structure does not run with the property, but rather to the specific occupant and the specific business enterprise. (Ord. 1993-17, S312.10, 1993)
- (11) Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time. (Ord. 1993-17, S312.11, 1993)

16.03.130 Performance Standards. All uses established or placed into operation after the effective date of this Ordinance shall comply with the following performance standards in the interests of protecting the public health, safety and welfare, and lessen injury to property. No use in existence on the effective date of the Ordinance shall be so altered or modified to conflict with these standards. (Ord. 1993-17, S313, 1993; Ord. 896, S313, 1977)

- (1) Fire Protection: Fire fighting equipment and prevention measures acceptable to the local Fire Department shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive material is conducted. (Ord. 1993-17, S313.1, 1993; Ord. 896, S313.1, 1977)
- (2) Electrical Disturbance: No use shall cause electrical disturbance adversely affecting radio, television, or other equipment in the vicinity. (Ord. 1993-17, S313.2, 1993; Ord. 896, S313.2, 1977)
- (3) Noise: No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness or vibration. Said noise shall be muffled or otherwise controlled so as not to become detrimental, provided, however, public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard. (Ord. 1993-17, S313.3, 1993; Ord. 896, S313.3, 1977)
- (4) Vibration: No use shall cause vibrations or concussions detectable beyond the lot lines without the aid of instruments. (Ord. 1993-17, S313.4, 1993; Ord. 896, S313.4, 1977)
- (5) Odor: No use shall emit across the lot lines malodorous gas or matter in such quantity as to be readily detectable at any point along the lot lines. (Ord. 1993-17, S313.5, 1993; Ord. 896, S313.5, 1977)
- (6) Air Pollution: No use shall discharge across the lot lines flyash, dust, smoke, vapors, noxious toxic or corrosive matter, or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property, or in conflict with standards

established by the public agencies. (Ord. 1993-17, S313.6, 1993; Ord. 896, S313.6, 1977)

- (7) Heat and Glare: The following requirements apply:
- (a) No use shall produce heat or glare in such a manner as to create a nuisance perceptible from any point beyond the lot lines. Lighted areas shall be approved prior to development and lights shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. In no case shall any light standard be placed closer than fifty (50) feet to any adjacent property line without specific approval of the Board of Zoning Appeals.
 - (b) In applications of high intensity lighting sources, or spot lights, no lighting fixture shall be located or positioned so that an observer standing on adjacent properties, or in a thoroughfare right-of-way, can see either the lamp bulb or the reflector source behind the lamp.
 - (c) This section pertains to outdoor lighting and advertising sign illumination. Public right-of-way lighting is excluded from this resolution, but it is recommended that these concepts be taken into account in street lighting as much as possible. (Ord. 1993-17, S313.7, 1993; Ord. 896, S313.7, 1989)
- (8) Water Pollution: No use shall produce erosion or other pollutants in such quantity as to be detrimental to adjacent properties and conflict with water pollution standards established by the public agencies. (Ord. 1993, S313.8, 1993; Ord. 896, S313.8, 1977)
- (9) Waste Matter: No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of applicable public health, safety and welfare standards and regulations. (Ord. 1993, S313.9, 1993; Ord. 896, S313.9, 1977)
- (10) Cost of Investigation: The City of Jasper shall bear the costs of the various tests, consultant fees or other investigations which are required herein; provided, however, that the owner of the property under investigation shall reimburse the City of Jasper for all such expenses in the event that operation or use of said property is found to be in violation of the provisions of Section 16.03.130 by the Board of Zoning Appeals or, if contested, by a court of competent jurisdiction. Such reimbursement shall be made within thirty (30) days from the date of the final Board ruling or court judgment. (Ord. 1993, S313.10, 1993; Ord. 896, S313.10, 1977)

16.03.140 Planned Unit Residential, Business or Industrial Development. (As Permitted in Table A): The District Regulations of the Ordinance codified in Title 16 and 17 may be modified by the Plan Commission in the case of a plan utilizing an unusual concept of development which meets the requirements of this section. The planned unit development provision is intended to encourage original and imaginative development and subdivision design which preserves the natural amenities of the site and provides for the general welfare of the Community. After the unit plan is approved, all development, construction, and use shall be in accordance with that plan unless a new planned unit development is submitted to and approved by the Plan Commission as required by the Ordinance codified in Title 16 and

17. Any development contrary to the approved unit plan shall constitute a violation of the Ordinance codified in Title 16 and 17. (Ord. 1993-17, S314, 1993; Ord. 896, S314, 1977)

- (1) The area of land to be developed shall not be less than five (5) acres. (Ord. 1993-17, S314.1, 1993; Ord. 896, S314.1, 1977)
- (2) Properties adjacent to the unit plan shall not be adversely affected. (Ord. 1993-17, S314.2, 1993; Ord. 896, S314.2, 1977)
- (3) In planned unit residential development, the minimum lot and yard requirements may be reduced; however, the average density of dwelling units in the total unit plan shall not be higher than that permitted in the district in which the plan is located. (Ord. 1993-17, S314.3, 1993; Ord. 896, S314.3, 1977)
- (4) In planned unit business and industrial developments, the minimum lot and yard requirements may be reduced; however, the total land area of the unit plan shall equal the accumulative lot area requirements of each use or structure contained within the unit plan. (Ord. 1993-17, S314.4, 1993; Ord. 896, S314.4, 1977)
- (5) The unit plan shall permanently reserve land suitable for the common use of the public or the owners in a particular development. This may be accomplished by dedication, covenant, or easement. This land may be for future public facilities, for recreational or scenic open space, or for a landscape buffer zone as approved by the Plan Commission. Provisions for permanent control and maintenance of this land shall be outlined in a form acceptable to the Plan Commission with the advice of their Attorney. (Ord. 1993-17, S314.5, 1993; Ord. 983, S1, 1979; Ord. 896, S314.5, 1977)
- (6) The unit plan shall be consistent with the purpose of the Ordinance codified in Title 16 and 17. (Ord. 1993-17, S314.6, 1993; Ord. 983, S1, 1979; Ord. 896, S314.6, 1977)
- (7) The unit plan shall be reviewed and approved or rejected by the Plan Commission following the guidelines of this section and the procedures and standards in the Subdivision Control Ordinance. (Ord. 1993-17, S314.7, 1993; Ord. 896, S314.7, 1977)

16.03.150 Planned Unit Development (PUD) District. The Planned Unit Development District is intended to be used for large scale developments which include a variety of residential and related uses and/or a variety of business and related uses, all planned and developed as a single unit. This PUD District may be approved by the Plan Commission and the City Council as an amendment to the Zoning Map for an innovative development that is planned in detail and guaranteed to be developed according to the approved plan. (Ord. 1993-17, S315, 1993; Ord. 896, S315, 1977)

- (1) The area of land to be developed shall not be less than twenty-five (25) acres. (Ord. 1993-17, S315.1, 1993; Ord. 896, S315.1, 1977)
- (2) Properties adjacent to the unit plan shall not be adversely affected. (Ord. 1993-17, S315.2, 1993; Ord. 896, S315.2, 1977)

- (3) In a PUD District, the density of development, the lot and yard sizes, the building locations, the common use or public areas, and the pedestrian and traffic circulation system shall be specifically designated in the PUD District Plan and approved by the Plan Commission and the City Council. (Ord. 1993-17, S315.3, 1993; Ord. 896, S315.3, 1977)
- (4) The PUD District Plan shall specifically designate the proposed land uses within the boundaries of the District including the various types of residential development and/or the specific types of business, together with all other related land uses. (Ord. 1993-17, S315.4, 1993; Ord. 896, S315.4, 1977)
- (5) The PUD shall be designed to preserve any natural amenities of the site and to create a stable environment of compatible uses and functions. (Ord. 1993-17, S315.5, 1993; Ord. 896, S315.5, 1977)
- (6) The PUD may permanently reserve land suitable for the common use of the public or the owners in the development. This may be accomplished by dedication, covenant, or easement. This land may be for future public facilities, for recreational or scenic open space, or for a landscape buffer zone as approved by the Plan Commission. Provisions for permanent control and maintenance of this land shall be outlined in a form acceptable to the Plan Commission with the advice of its Attorney. (Ord. 1993-17, S315.6, 1993; Ord. 896, S315.6, 1977)
- (7) The PUD Plan shall be consistent with the purpose of this Ordinance codified in Title 16 and 17. (Ord. 1993-17, S315.7, 1993; Ord. 896, S315.7, 1977)
- (8) The PUD Plan shall be submitted to and reviewed by the Plan Commission as a proposed amendment to the Zoning Map and as a Subdivision. The Plan Commission shall concurrently review the Plan according to the provisions for amending the Zoning Ordinance. Following the review by the Plan Commission, including the required public hearing, the Plan Commission shall make a recommendation to the City Council in accordance with the requirements for amending the Zoning Ordinance. (Ord. 1993-17, S315.8, 1993; Ord. 896, S315.8, 1977)
- (9) Permits for any site improvement or structure in a PUD shall be issued only after the plans for such development have been approved by the Plan Commission and the City Council; and after plans of approved PUD have been duly recorded with the County Recorder. All structures in an approved PUD shall be constructed as shown on the approved plans and in accordance with the applicable building codes, and any site improvement activities shall fall within the limitations for the approved PUD. (Ord. 1993-17, S315.9, 1993; Ord. 896, S315.9, 1977)
- (10) In the exercise of its continuing subdivision jurisdiction, the Plan Commission may from time to time modify the approved PUD in a manner consistent with the approved PUD to allow for changed circumstances and/or conditions unforeseen at the time of original approval. (Ord. 1993-17, S315.10, 1993; Ord. 896, S315.10, 1977)

- (11) Approval of the PUD Plan by the Commission shall expire after a period of five (5) years from the approval of the plan unless the development is fifty percent (50%) completed in terms of public improvement including streets, parks, walkways, and utility installations such as power, gas, water, and sanitary sewers, in which latter instance an extension of time may be granted by the Plan Commission not to exceed five (5) successive periods of two (2) years each. (Ord. 1993-17, S315.11, 1993; Ord. 896, S315.11, 1977)

- (12) Upon the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved PUD for twenty-four (24) consecutive months), or upon the expiration of five (5) years from the approval by the Plan Commission of a PUD for a development which has not been completed (or the expiration of an extension granted by the Plan Commission), the Plan Commission shall initiate an amendment to the Zoning Ordinance so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories as appropriate. (Ord. 1993-17, S315.12, 1993; Ord. 896, S315.12, 1977)

Chapter 16.04

ADMINISTRATION AND ENFORCEMENT

Sections:

- 16.04.010** **Administrative Responsibility.**
- 16.04.020** **Improvement Location Permits.**
- 16.04.030** **Fees.**
- 16.04.040** **Violations and Penalties.**

16.04.010 Administrative Responsibility. The Plan Commission shall establish the position of Zoning Administrator and the procedures and responsibilities for the administration and enforcement of the Ordinance 1993-17, codified in Title 16 and 17 in accordance with the following provisions and State legislation. (Ord. 2007-36, S2, Oct. 17, 2007) (Ord. 1993-17, S401, 1993; Ord. 896, S401, 1977)

16.04.020 Improvement Location Permits. Improvement Location Permits shall be issued by the Zoning Administrator. In the absence of the Zoning Administrator, Improvement Location Permits may be issued by the City Engineer, the Mayor or other designated representative. No permit shall be issued by the Zoning Administrator, City Engineer, the Mayor or other designated representative unless the proposed structure or use of structure or land is in complete conformity with the provisions of this Ordinance, or unless a written order is received from the Board of Zoning Appeals, the Plan Commission, or a court of competent jurisdiction in accordance with this Ordinance and State legislation.

- (1) An Improvement Location Permit must be obtained from the Zoning Administrator before any structure may be constructed, reconstructed, moved, enlarged, or structurally altered. In the absence of the Zoning Administrator, an Improvement Location Permit must be obtained from the City Engineer, Mayor or other designated representative before any structure may be constructed, reconstructed, moved, enlarged, or structurally altered.
- (2) No Permit shall be required for zoning purposes for:
 - (a) Routine maintenance, repair, or remodeling of existing structures not involving any change of use, additional lot coverage, or increase in structure size;
 - (b) Essential Services as defined in 16.07.020(30);
 - (c) Lot and yard improvements such as drives, sidewalks, patios, play equipment, and landscaping; (fences and pools shall require a Permit)
 - (d) Signs with a surface area of four (4) square feet or less in a residential zone; and
 - (e) Structures which are exclusively for agricultural production purposes.

- (3) All applications for permits shall be accompanied by a plot plan which is drawn to scale and shows clearly and completely:
 - (a) The location, dimensions, and nature of the property;
 - (b) The location and dimensions of any existing or proposed structures;
 - (c) All adjoining thoroughfares and any existing or proposed structures;
 - (d) The existing and proposed use of all structures and land;
 - (e) The location and type of sewerage system, water system, and drainage facilities;
 - (f) Estimated cost of construction;
 - (g) Name of land owner and lessee (if any) and date of application;
 - (h) Location and width of drive at street line along with grade at entrance (to be the same as street centerline);
 - (i) Such other information as may be necessary to determine conformance with Ordinance 1993-17; as amended codified in Title 16 and 17.
- (4) An Improvement Location Permit Card shall accompany all issued Permits. Said Permit Card shall be displayed by the applicant in or on the structure or place of construction in a prominent place easily seen.
- (5) Said Permit Card when issued shall be the property of the City of Jasper and shall be loaned to the applicant for duration of such construction as herein defined, and the Zoning Administrator shall have the right to enter upon such property for the purpose of inspecting such construction. In the absence of the Zoning Administrator, the City Engineer, Mayor or other designated representative shall have the right to enter upon such property for the purpose of inspecting such construction. Upon finding a violation of this chapter or other pertinent laws or ordinances, said City representative shall remove such Permit Card and the owner, contractor, or subcontractor shall not resume such construction until the item or items of noncompliance have been eliminated or corrected and the Permit Card reissued and displayed.
- (6) If the work described in any permit has not begun within 180 days from the date of issuance thereof, said permit shall expire and a new Permit shall be required before any such work may commence.
- (7) If the work described in any Permit has not been substantially completed within two years of the date of issuance thereof, said Permit shall expire. Further work shall not proceed unless a new permit is obtained.

- (8) The Zoning Administrator - or in the absence of the Zoning Administrator, the City Engineer, Mayor or other designated representative - during its review of Improvement Location Permits, shall assure that all National Flood Insurance Program regulations pertaining to state and federal permits, subdivision review, mobile home tiedown standards, utility construction, record-keeping (including lowest floor elevation), building permit review and watercourse alteration and maintenance have been met. (Ord. 2007-36, S3, Oct. 17, 2007) (Ord. 1993-17, S402, 1993) (Ord. 1202, S1, 1985) (Ord. 1082, S1, 1982) (Ord. 896, S402, 1977)

16.04.030 Fees. Improvement Location Permits shall be issued upon prior payment of fees in accordance with the following fee schedule:

- (1) Industrial construction:
\$0.03 per square foot - minimum \$150.00, maximum \$1,500.00
- (2) Commercial construction:
\$0.03 per square foot - minimum \$150.00, maximum \$1,500.00
- (3) Multi-family (more than two) residential:
\$60.00 per unit
- (4) Single or Two-family residential:
0-1500 square feet - \$75.00
Over 1500 square feet - \$120.00
- (5) Residential Accessory building or building addition:
0-500 square feet - \$25.00
501-1000 square feet - \$50.00
Over 1000 square feet - \$75.00
- (6) In-ground Pools (with fence) and permanently*
installed Above-ground Pools (with fence): \$50.00
*For purposes of this Ordinance, 'permanent' means fixed or
intended to be fixed, not temporary
- (7) Fences:** \$20.00
** For purposes of this Ordinance, 'fence' is defined as a structure
serving as an enclosure, barrier or boundary.
- (8) Surface mounted and free standing Signs: \$1.00 per square foot
A Permit is not required when signs are reconstructed and/or
replaced and neither the size, nor the shape, nor the location of
the sign is changed.

The fees imposed by this Section shall be effective January 1, 2008. The City of Jasper and its departments shall be exempt from the fees imposed by this Section, but shall be required to obtain

an Improvement Location Permit. (Ord. 2007-36, S4, Oct. 17, 2007) (Ord. 1993-17, S403, 1993) (Ord. 896, S403, 1977)

16.04.040 Violations and Penalties. It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any structure or land in violation of any regulation in or any provisions of this Ordinance or of any regulation enacted hereunder by the Plan Commission or Board of Zoning Appeals. In addition to any other rights the City of Jasper may have under any State or Federal law or other City ordinances, the owner of any structure or land that is constructed or used in violation of this Ordinance may be issued an ordinance violation at the discretion of the Plan Commission and fined not less than One Hundred Dollars (\$100.00) and not more than Two Thousand Five Hundred Dollars (\$2,500.00). Each day the violation continues shall constitute a separate offense. If said fine is not paid when indicated, at the discretion of the City Attorney and Zoning Administrator, said ordinance violation may be filed in court, in which case the owner, if found to be in violation of this Ordinance, shall also be responsible for the fine and court costs. The City shall also have the right to recover any other costs of administering this Ordinance, including, but not limited to, attorney fees. (Ord. 2007-36, S5, Oct. 17, 2007) (Ord. 1993-17, S404, 1993) (Ord. 896, S404, 1977)

Chapter 16.05

BOARD OF ZONING APPEALS

Sections:

16.05.010	General.
16.05.020	Appeals.
16.05.030	Variances.
16.05.040	Special Exceptions.
16.05.050	Non-Conforming Uses of Land and Structures.
16.05.060	Hearings.
16.05.070	Disposition of Cases.
16.05.080	Membership.
16.05.090	Commitment by Owner.

16.05.010 General. The Advisory Board of Zoning Appeals of the City of Jasper is hereby established as authorized by and in accordance with I.C. 36-7-4-900 et seq. and all subsequent amendments thereto. (Ord. 1993-17, S501, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984; Ord. 896, S501, 1977)

- (1) The Advisory Board of Zoning Appeals of the City of Jasper shall be composed of one (1) Division which shall have territorial jurisdiction over all lands within the corporate limits of the City of Jasper and also those contiguous lands outside the corporate limits of said City over which said City and its Plan Commission exercises its planning and zoning jurisdiction as permitted by State law. (Ord. 1993-17, S501.1, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

16.05.020 Appeals. The Board of Zoning Appeals shall hear and determine appeals from and review:

- (1) Any order, requirement, decision or determination made by an administrative official or hearing officer under the Zoning Code;
- (2) Any order, requirement, decision, or determination made by an administrative official, hearing officer, staff member or administrative board designed by Ordinance (other than the Plan Commission), made in relation to the enforcement of the building and occupancy permits as adopted under I.C. 36-7 and all sections therein applicable; and
- (3) The Board of Zoning Appeals shall approve or deny all:
 - (a) Special exceptions; and
 - (b) Special uses;

from the terms of the Zoning Code, but only in the classes of cases or in the particular situations specified in the Zoning Code. The board may impose reasonable conditions as a part of its approval. (Ord. 1993-17, S502, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1994)

16.05.030 Variances. The Board of Zoning Appeals, upon appeal, shall have the power to authorize variances from the requirements of this Title (Ordinance), and to attach such conditions to the variances as it deems necessary to assure compliance with the purpose of this Title (Ordinance). (Ord. 1993-17, S503, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984; Ord. 896, S503, 1977)

- (1) The Board of Zoning Appeals shall approve or deny variances of use from the terms of the Zoning Code. The board may impose reasonable conditions as a part of its approval. A variance may be approved under this section only upon a determination in writing that:
 - (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - (c) The need for the variance arises from some condition peculiar to the property involved;
 - (d) The strict application of the terms of the Zoning Code will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
 - (e) The approval does not interfere substantially with the comprehensive plan adopted by the City of Jasper. (Ord. 1993-17, S503.1, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984; Ord. 896, S503, 1977)

- (2) The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the Zoning Code. A variance may be approved under this section only upon a determination in writing that:
 - (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - (c) The strict application of the terms of the Zoning Code will result in practical difficulties in the use of the property. (Ord. 1993-17, S503.2, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984; Ord. 896, S503, 1977)

- (3) The Board of Zoning Appeals may not grant a variance to any of the requirements of the Flood Plain (FP) or Floodway (FW) District, or to the Flood Protection Grade Requirements of the Floodway Fringe (FF) District without the written approval of Natural Resources. (Ord. 1993-17, S503.3, 1993; Ord. 896 S503.5, 1977)

16.05.040 Special Exceptions. The Board of Zoning Appeals shall have the power to authorize special exceptions including, but not limited to, those listed in Table A, if the following requirements are met:

- (1) The special exception can be served with adequate utilities, access roads, drainage, and other necessary facilities. (Ord. 1993-17, S504.1, 1993; Ord. 896, S504.1, 1977)
- (2) The special exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards of Section 16.03.130. (Ord. 1993-17, S504.2, 1993; Ord. 896, S504.2, 1977)
- (3) The special exception shall be sited, oriented, and landscaped to produce harmonious relationship of buildings and grounds to adjacent buildings and property. (Ord. 1993-17, S504.3, 1993; Ord. 896, S504.3, 1977)
- (4) The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood. (Ord. 1993-17, S504.4, 1993; Ord. 896, S504.4, 1977)
- (5) The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood. (Ord. 1993-17, S504.5, 1993; Ord. 896, S504.5, 1977)
- (6) The special extension shall preserve the purpose of this Title (Ordinance). (Ord. 1993-17, S504.6, 1993; Ord. 896, S504.6, 1977)
- (7) When the Board is considering a single-family dwelling in the Agricultural District, they shall be guided by the following:
 - (a) The current or potential use of the land.
 - (b) The limitations or suitability of the soils.
 - (c) Any possible conflicts with an agricultural operation.
 - (d) The needs for crop land or grazing lands in the area.
 - (e) The character of the area. (Ord. 1993-17, S504.7 a-e, 1993; Ord. 896, S504.7 a-e, 1977)

- (8) The Board of Zoning Appeals may hear and decide special exceptions authorized by the Zoning Code. (Ord. 1993-17, S504.8, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (9) Upon receipt of an application for an Improvement Location Permit for a Special Exception by the Zoning Administrator, it shall be referred to the Plan Commission for investigation as to the manner in which the proposed location and character of the Special Exception will affect the Comprehensive Plan. The Plan Commission shall report the result of its study to the Board of Zoning Appeals within thirty (30) days following receipt of the application. If no such report has been filed with the Board within this time period, the Board may proceed to process the application. (Ord. 1993-17, S504.9, 1993; Ord. 1195, 1984; Ord. 1194, 1984, Ord. 1189, 1984)
- (10) The Board shall then proceed with a hearing on the application in the manner prescribed in the ordinance adopting these regulations. Following the hearing, and upon an affirmative finding by the board that:
 - (a) The proposed Special Exception is to be located in a District wherein such use may be permitted; and
 - (b) The requirements set forth in the District and this section for such Special Exception were met; and
 - (c) The Special Exception is consistent with the spirit, purpose and intent of these regulations, will not substantially and permanently injure the appropriate use of the neighboring property, and will serve the public convenience and welfare. (Ord. 1993-17, S504.10, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (11) The Board of Zoning Appeals shall order the Zoning Administrator to issue an Improvement Location Permit for the Special Exception. (Ord. 1993-17, S504.11, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

16.05.050 Non-Conforming Uses of Land and Structures. The Board shall have the power to authorize changes of lawful non-conforming uses in accordance with Section 16.03.010 of this Zoning Ordinance. (Ord. 1993-17, S505, 1993; Ord. 896, S505, 1977)

16.05.060 Hearings. The board shall fix a reasonable time for the hearing of administrative appeals, exceptions, uses and variances. (Ord. 1993-17, S506, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984; Ord. 896, S506, 1977)

- (1) Public notice of all hearings before the board shall be given in accordance with the provisions of I.C. 5-3-1-2 (b) and I.C. 5-3-1-4. (Ord. 1993-17, S506.1, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984; Ord. 896, S506.1, 1977)

- (2) The petitioner shall also serve notice to owners of property within 200 feet which shall include at least two adjacent property owners in all directions (but in no event further than 400 feet) return receipt requested -- or by hand carried notification signed by the property owners not less than ten (10) days prior to the date of the hearing advising the location and nature of the subject petitioned and the date, place and time of the public hearing. The petitioner shall provide the Commission with a complete list of the above-mentioned owners together with their last known addresses from the County Auditor's office and proof of service of notice. (Ord. 1993-17, S506.2, 1993; Ord. 1990-8, S1, 1990; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984; Ord. 896, S506.2, 1977)
- (3) The party requesting the appeal or applying for the variance, exception or use shall be responsible for the cost of the public notice and written notice to the interested parties as set forth above. (Ord. 1993-17, S506.3, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984; Ord. 896, S506.3, 1977)
- (4) The party requesting the appeal or applying for the hearing shall provide the board with a complete list of the above-mentioned property owners and occupants together with their last known addresses from county records at least ten (10) days prior to the proposed hearing date. (Ord. 1993-17, S506.4, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (5) No appeal or application for a special exception, use or variance or rezoning shall be heard by the board unless and until the applicant for such relief has paid the application fee as follows:

Application for Special Exception - \$20.00
Application for Use or Variance - \$75.00
Request for Special Meeting of the Board - \$25.00

- which shall be payable at the time of the application or appeal is filed and together with the costs of the public notice and service of notice upon interested parties as set forth above, which shall be the publication expense and mailing expense for such notices. The applicant shall submit proof of payment for said charges at or prior to the hearing. (Ord. 1993-17, S506.5, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (6) At the hearing, each party may appear in person, by agent, or by attorney. (Ord. 1993-17, S506.6, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
 - (7) The Zoning Administrator may appear before the board at the hearing and present evidence in support of or in opposition to the granting of a variance or the termination of any other matter. (Ord. 1993-17, S506.7, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
 - (8) Other persons may appear and present relevant evidence. (Ord. 1993-17, S506.8, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (9) A person may not communicate with any member of the board before the hearing with intent to influence the member's action on a matter pending before the board. Not less than five (5) days before the hearing, however, the Zoning Administrator or the Plan Commission may file with the Board a written statement setting forth any facts or opinions relating to the matter. (Ord. 1993-17, S506.9, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (10) The Board may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than four (4) days before the hearing, the board may also require the petitioner to furnish each adverse party with a copy of the petition and a plot plan of the property involved. (Ord. 1993-17, S506.10, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

16.05.070 Disposition of Cases. Specifications for appeals to the Board of Zoning Appeals are as follows:

- (1) An appeal filed with the Board of Zoning Appeals must specify the grounds of the appeal and must be filed within 15 days prior to the meeting the appeal is to be heard, and in such form as may be prescribed by the Board of Zoning Appeals by rule. (Ord. 1993-17, S507(1), 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (2) The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken, shall, on the request of the Board of Zoning Appeals, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal was taken. (Ord. 1993-17, S507(2), 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (3) Certified copies of the documents, plans, and papers constituting the record may be transmitted for purposes of subsection (2). (Ord. 1993-17, S507(3), 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (4) Upon appeal, the Board may reverse, affirm or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken. (Ord. 1993-17, S507(4), 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (5) The board shall make a decision on any matter that it is required to hear either:
 - (a) At the meeting at which that matter is first presented; or
 - (b) At the conclusion of the hearing on that matter, if it is continued. (Ord. 1993-17, S507(5), 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (6) Within five (5) days after making any decision, the Board of Zoning Appeals shall file in the office of the board a copy of its decision. (Ord. 1993-17, S507(6), 1993; Ord. 1195, 1984; Ord. 1189, 1984)
- (7) All decisions of the Board, on matters heard in public hearings, shall be made by record vote. The vote of each member shall be a matter of permanent record. (Ord. 1993-17, S507.1, 1993; Ord. 896, S507.1, 1977)
- (8) A case cannot be withdrawn by the petitioner after the vote has been ordered by the Chairman. No case which has been withdrawn by the petitioner shall again be placed on the docket for consideration by the Board within a period of three months from the date of said withdrawal, except upon the motion of a member, and adopted by the unanimous vote of all members present at a regular or special meeting. (Ord. 1993-17, S507.2, 1993; Ord. 896, S507.2, 1977)
- (9) An appeal which has been decided against the petitioner shall not again be placed on the docket for consideration by the board within a period of six (6) months from the date of the decision previously rendered except upon the motion of a member and adoption by unanimous vote of all members present at a regular or special meeting. (Ord. 1993-17, S507.3, 1993; Ord. 896, S507.3, 1977)
- (10) Whenever the Board hears any matter, petition or motion of intention or acts thereon, it shall thereby waive any requirement as to form of petition and date required except insofar as the Board shall otherwise designate at such time. (Ord. 1993-17, S507.4, 1993; Ord. 896, S507.4, 1977)
- (11) The Board may dismiss an appeal for want of prosecution, if no action has been taken on the case for a period of 90 days by the petitioner. (Ord. 1993-17, S507.5, 1993)

16.05.080 Membership. The Advisory Board of Zoning Appeals of the City of Jasper (being only one division) shall consist of six (6) appointed members, to be appointed in the following manner: (Ord. 1993-17, S508, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (1) Three (3) of the members shall be appointed by the Mayor of the City of Jasper, one (1) must be a member of the Jasper Plan Commission and the other two (2) mayoral appointments must not be members of the Jasper Plan Commission. (Ord. 1993-17, S508.1, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (2) One (1) member shall be appointed by the Jasper Common Council, said appointee must not be a member of the Jasper Plan Commission. (Ord. 1993-17, S508.2, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (3) One (1) member shall be appointed by the Jasper Plan Commission, said appointee shall be one (1) of two (2) members of the Plan Commission who represents the unincorporated area which is subject to the planning and zoning jurisdiction of said Commission. Said appointee must reside in the unincorporated area. (Ord. 1993-17, S508.3, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (4) One (1) citizen member appointed by the Advisory Plan Commission who must be a member of the Advisory Plan Commission other than the member appointed under Sub-Section (1). (Ord. 1993-17, S508.4, 1993; Ord. 1283, S1, 1986)
- (5) Each member of the Advisory Board of Zoning Appeals must be a resident of the jurisdictional area of the Board. None of the members of the Board may hold other elected or appointed office in municipal, county or state government, except as permitted by I.C. 36-7-4-902. (Ord. 1993-17, S508.5, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (6) Each appointing authority may, at any time, appoint an alternate member to participate with the Board in any hearing or decision in which the regular member it has appointed has a disqualification pursuant to this Code or state statute. (Ord. 1993-17, S508.6, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (7) The initial terms of the members of the Advisory Board of Zoning Appeals shall be established in accordance with the provisions of I.C. 36-7-4-906 and the provisions of the Acts of 1983, Public Law 357, Section 24, to insure the staggering of terms and to provide for an established method for determining when and in what order the appointing authorities shall make their appointments to the Advisory Board of Zoning Appeals. When the initial term of office of each board member expires, each new appointment shall be for a term of four (4) years. Each member's terms shall expire on the first Monday of January of the termination year designated in said member's appointment. (Ord. 1993-17, S508.7, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (8) A member of the board shall serve until his successor is appointed and qualified. A member is eligible for reappointment. (Ord. 1993-17, S508.8, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (9) The appointing authority may remove a member from the Board of Zoning Appeals for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at his residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of the county. (Ord. 1993-17, S508.9, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (10) If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. (Ord. 1993-17, S508.10, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (11) A member of the Board of Zoning Appeals may not participate in a hearing or decision of that board concerning a zoning matter in which he has direct or indirect financial interest. The board shall enter in its records: (Ord. 1993-17, S508.11, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (12) The fact that a regular member has a disqualification; and (Ord. 1993-17, S508.12, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (13) The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member. (Ord. 1993-17, S508.13, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (14) Meetings, records and rules. A quorum consists of a majority of the entire membership of the Board of Zoning Appeals. (Ord. 1993-17, S508.14, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (15) Action of the Board of Zoning Appeals is not official, unless it is authorized by a majority of the entire membership of the Board. (Ord. 1993-17, S508.15, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (16) At the first meeting of each year, the Board of Zoning Appeals shall elect a chairman and vice-chairman from its members. The vice-chairman may act as chairman during the absence or disability of the chairman. (Ord. 1993-17, S508.16, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (17) The Board of Zoning Appeals shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and 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 findings of fact. (Ord. 1993-17, S508.17, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (18) The Board of Zoning Appeals shall adopt rules, which may not conflict with the Zoning Code, concerning:
 - (a) The filing of appeals;
 - (b) The application for variances and special exceptions;
 - (c) The giving of notice;
 - (d) The conduct of hearings; and
 - (e) The determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area). (Ord. 1993-17, S508.18, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (19) Rules adopted by the Board of Zoning Appeals shall be printed and be made available to all applicants and other interested persons. (Ord. 1993-17, S508.19, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

16.05.090 Commitment by Owner. Requirements for an exception, use, or variance are listed below:

- (1) In the case of a petition for a:

- (a) Special Exception; or
- (b) Variance

from the terms of the Zoning Code, the Board of Zoning Appeals may permit or require the owner of a parcel of property to make a written commitment concerning the use of development of that parcel. (Ord. 1993-17, S509.1, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (2) The Board of Zoning Appeals may:

- (a) Adopt rules governing the creation, form, recording, modification, enforcement, and termination of commitments; and
- (b) Adopt rules designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments. (Ord. 1993-17, S509.2, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (3) Property owner commitments shall be recorded in the office of the county recorder and take effect upon the granting of the exception, use, or variance. Unless modified or terminated by the Board of Zoning Appeals, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment may be modified or terminated only by a decision of the board made at a public hearing after notice is provided by rule. However, commitments for home occupations are governed by Section 16.03.120. (Ord. 1993-17, S509.3, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (4) By permitting or requiring commitments, the Board of Zoning Appeals does not obligate itself to approve or deny any request. (Ord. 1993-17, S509.4, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (5) Conditions imposed on the granting of an exception, use, or variance are not subject to the rules applicable to commitments. (Ord. 1993-17, S509.5, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

- (6) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law. (Ord. 1993-17, S509.6, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (7) Every decision by the Board shall be subject to review by certiorari. (Ord. 1993-17, S509.7, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)
- (8) If any provision of this section or the application thereof is held invalid, the invalidity may not affect other provisions or applications chapter which can be given effect without the valid provisions or application, and to this end the provisions of this chapter are declared severable. (Ord. 1993-17, S509.8, 1993; Ord. 1195, 1984; Ord. 1194, 1984; Ord. 1189, 1984)

Chapter 16.06

AMENDMENTS

Sections:

- 16.06.010** **General.**
- 16.06.020** **Petitions.**
- 16.06.030** **Referral.**
- 16.06.040** **Action.**

16.06.010 General. The Common Council may introduce and consider amendments to this Title (Ordinance) and to the Zoning Maps, as proposed by the Common Council, by the Plan Commission or by a petition by the owners of fifty percent (50%) or more of the area involved in the petition. (Ord. 2006-41, S1, Sept. 20, 2006) (Ord. 1993-17, S601, 1993; Ord. 896, S601, 1977)

16.06.020 Petitions. Petitions for amendment to the Zoning Code shall be accompanied by a fee of One Hundred Dollars (100.00), unless said amendment is initiated by the City of Jasper. (Ord. 2006-41, S2, Sept. 20, 2006) (Ord. 1993-17, S602, 1993; Ord. 1036, S1, 1981; Ord. 896, S602, 1977)

16.06.030 Referral. Any proposed amendment shall be considered by the Plan Commission before any final action is taken by the Common Council. The Plan Commission shall hold a public hearing, as prescribed by law and report its recommendations in writing to the Common Council within such reasonable time after the public hearing. (Ord. 2006-41, S3, Sept. 20, 2006) (Ord. 1993-17, S603, 1993; Ord. 896, S603, 1977)

- (1) The Petitioner shall prepare a legal notice of public hearing on a form provided by the Plan Commission and shall advertise the public hearing in a newspaper of general circulation in the County not less than ten (10) days prior to the date of the hearing. The Petitioner shall assume the cost of said notice and shall submit proof of publication at the hearing. (Ord. 2006-41, S3, Sept. 20, 2006) (Ord. 1993-17, S603.1, 1993; Ord. 908, S1D, 1978; Ord. 896, S603.1, 1977)
- (2) The Petitioner shall also serve notice to owners of property within 200 feet which shall include at least two adjacent property owners in all directions (but in no event further than 400 feet) return receipt requested -- or by hand carried notification to be signed and dated by property owners not less than ten (10) days prior to the date of the hearing advising the location and nature of the subject petitioned and the date, place and time of the public hearing. The Petitioner shall provide the Commission with a complete list of the above mentioned owners together with their last known addresses from the County Auditor's office and proof of service of notice. (Ord. 2006-41, S3, Sept. 20, 2006) (Ord. 1993-17, S603.2, 1993; Ord. 896, S603.2, 1977)
- (3) No petition shall be heard until the Petitioner has provided the Commission with a receipt showing the filing fees have been paid. (Ord. 2006-41, S3, Sept. 20, 2006) (Ord. 1993-17, S603.3, 1993; Ord. 896, S603.3, 1977)

- (4) The final disposition of any proposal before the Commission shall be in the form of a certification to the Common Council with a favorable recommendation, an unfavorable recommendation or no recommendation on the proposal, or other action as required by State law. The Commission may dismiss a petition for want of prosecution if no action has been taken to the case (which includes the petition being continued at the request of the petitioner) for a period of 90 days, by the petitioner. (Ord. 2006-41, S3, Sept. 20, 2006) (Ord. 1993-17, S603.4, 1993; Ord. 896, S603.4, 1977)
- (5) All decisions of the Commission, on matters heard in public hearings, shall be made by record vote. The vote of each member shall be a matter of permanent records. (Ord. 2006-41, S3, Sept. 20, 2006) (Ord. 1993-17, S603.5, 1993; Ord. 896, S603.5, 1977)
- (6) A case may not be withdrawn by the petitioner after the public hearing on the proposal has been closed by the Commission. No case which has been withdrawn by the petitioner shall again be placed on the docket for consideration by the Commission within a period of three (3) months from the date of said withdrawal, except upon the motion of a member, and adopted by the unanimous vote of all members present at a regular or special meeting. (Ord. 2006-41, S3, Sept. 20, 2006) (Ord. 1993-17, S603.6, 1993; Ord. 896, S603.6, 1977)

16.06.040 Action. After receiving the Plan Commission's certification, the Common Council may proceed to take action on the proposed amendment. Failure of the Common Council to pass such proposed amendment after its rejection by the Plan Commission shall constitute rejection of the proposed amendment and it shall not be reconsidered by the Plan Commission or Common Council until the expiration of one (1) year after the date of its original rejection by the Plan Commission. (Ord. 2006-41, S4, Sept. 20, 2006) (Ord. 1993-17, S604, 1993; Ord. 896, S604, 1977)

Chapter 16.07

DEFINITIONS

Sections:

16.07.010 Word Interpretations.

16.07.020 Word Definitions.

16.07.010 Word Interpretations. For the purpose of this Title (Ordinance), the following terms have the meanings indicated below.

- (1) The present tense includes the future tense. (Ord. 1993-17, S701.1, 1993)
- (2) The singular number includes the plural and the plural includes the singular. (Ord. 1993-17, S701.2, 1993)
- (3) The word "shall" is mandatory; the word "may" is permissive. (Ord. 1993-17, S701.3, 1993)
- (4) The word "used" includes "designed" or "intended to be used". (Ord. 1993-17, S701.4, 1993)

16.07.020 Word Definitions. Certain words used in this Title (Ordinance) are defined below. Any words not defined as follows shall be construed in their general accepted meanings.

- (1) Accessory Use or Structure: One which (a) is subordinate to and serves a principal building or principal use; (b) is subordinate in area, extent, or purpose to the principal building or principal use served; (c) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and (d) is located on the same lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot with the building or use served. (Ord. 1993-17, S702.1, 1993; Ord. 896, S702.1, 1977)
- (2) Adult Arcade means an establishment where, for any form of consideration, one or more still or motion picture machines, projectors, or other image-producing devices are regularly used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas." (Ord. 2004-8, S10, Apr. 21, 2004)
- (3) Adult Bookstore, Adult Novelty Store or Adult Video Store means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale or rental, for any form of consideration, any one or more of the following:

- (a) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - (b) instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities.
 - (c) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an ADULT BOOKSTORE or ADULT NOVELTY STORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE or ADULT NOVELTY STORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment (Ord. 2004-8, S10, Apr. 21, 2004)
- (4) Adult Cabaret means a nightclub, bar, juice bar, restaurant, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features:
- (a) persons who appear in a state of nudity or semi-nudity; or
 - (b) live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - (c) films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (d) persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers. (Ord. 2004-8, S10, Apr. 21, 2004)
- (5) Adult Motel means a hotel, motel or similar commercial establishment that:
- (a) offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

- (b) offers a sleeping room for rent for a period of time that is less than ten (10) hours;
or
 - (c) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours. (Ord. 2004-8, S10, Apr. 21, 2004).
- (6) Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." (Ord. 2004-8, S10, Apr. 21, 2004)
 - (7) Adult Theater means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities." (Ord. 2004-8, S10, Apr. 21, 2004)
 - (8) Agriculture: The use of land or structures for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory structures and uses for the packing, treating or storing of produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. (Ord. 1993-17, S702.2, 1993; Ord. 896, S702.2, 1977)
 - (9) Air Pollution: Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to property or which unreasonably interferes with the comfortable enjoyment of life and property. (Ord. 1993-17, S702.3, 1993; Ord. 896, S702.3, 1977)
 - (10) Alley: A public right-of-way which normally affords a secondary means of access to abutting property. (Ord. 1993-17, S702.4, 1993; Ord. 896, S702.4, 1977)
 - (11) Basement: That portion of a building which is partially or completely below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average to the ceiling. A basement shall not be considered a dwelling or story of a dwelling. (Ord. 1993-17, S702.5, 1993; Ord. 896, S702.5, 1977)
 - (12) Board: The Board of Zoning Appeals. (Ord. 1993-17, S702.6, 1993; Ord. 896, S702.6, 1977)
 - (13) Boarding House: A building not open to transients, where lodging and/or meals are provided for three (3) or more, but not more than thirty (30) persons regularly. (Ord. 1993-17, S702.7, 1993; Ord. 896, S702.7, 1977)

- (14) Building: A structure built for the support, enclosure, shelter, or protection of persons, animals, chattels, or moveable property of any kind which is permanently affixed to the land. (Ord. 1993-17, S702.8, 1993; Ord. 896, S702.8, 1977)
- (15) Clinic: Any establishment where human patients are examined and treated by doctors or dentists but not hospitalized overnight. (Ord. 1993-17, S702.9, 1993; Ord. 896, S702.9, 1977)
- (16) Commission: The Plan Commission. (Ord. 1993-17, S702.10, 1993; Ord. 896, S702.10, 1977)
- (17) Confined Feeding: The confined feeding of animals for foods, fur, or pleasure purposes in lots, pens, ponds, sheds or buildings where all food is supplied to the animals by means other than grazing. (Ord. 1993-17, S702.11, 1993; Ord. 896, S702.11, 1977)
- (18) Confined Feeding Operations: Shall mean (a) any confined feeding of 300 or more cattle, 600 or more swine or sheep and 30,000 or more fowl; or (b) any animal feeding operation utilizing a waste lagoon or holding pit; or (c) any animal feeding operations where the operator elects to come under the Act; or (d) any animal feeding operation that is causing violation of Chapter 214, Act 1943, as determined by the Stream Pollution Control Board. (Ord. 1993-17, S702.12, 1993; Ord. 896, S702.12, 1977)
- (19) Day Care Center: Any institution, not a residential structure or dwelling unit, operated for the purpose of providing: care, maintenance, or supervision and/or instruction to children as defined by, or similar to, operations which require State licensing or review as set forth by the State of Indiana. (Ord. 1993-17, S702.13, 1993)
- (20) Day Care Home: A residential structure or dwelling unit where an individual provides child care where such operation would require licensing from the State of Indiana. (Ord. 1993-17, S702.14, 1993)
- (21) Drive-In: A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles. (Ord. 1993-17, S702.15, 1993)
- (22) Dwelling: A permanent building, or portion thereof, but not a mobile home or basement designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple family dwellings, but not including hotels, motels, or lodging houses. (Ord. 1993-17, S702.16, 1993; Ord. 896, S702.13, 1977)
- (23) Dwelling Unit: One or more rooms which are arranged, designed or used as living quarters for one family. (Ord. 1993-17, S702.17, 1993; Ord. 896, S702.14, 1977)
- (24) Dwelling, Single-Family: A dwelling containing one dwelling unit only. (Ord. 1993-17, S702.18, 1993; Ord. 896, S702.15, 1977)
- (25) Dwelling, Two-Family: A dwelling containing two dwelling units only. (Ord. 1993-17, S702.19, 1993; Ord. 896, S702.16, 1977)

- (26) Dwelling, Multiple Family: A dwelling or portion thereof, containing three or more dwelling units including condominiums. (Ord. 1993-17, S702.20, 1993; Ord. 896, S702.17, 1977)
- (27) Employ, Employee, Employment means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer. (Ord. 2004-8, S10, Apr. 21, 2004)
- (28) Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person. (Ord. 2004-8, S10, Apr. 21, 2004)
- (29) Escort Agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. (Ord. 2004-8, S10, Apr. 21, 2004)
- (30) Essential Service: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, telephone, sewer, water transmission drains, sewers, pipes, conduit cables, fire alarms boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare but not including buildings. (Ord. 1993-17, S702.21, 1993; Ord. 896, S702.18, 1977)
- (31) Establishment means and includes any of the following:
- (a) the opening or commencement of any sexually oriented business as a new business;
 - (b) the conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - (c) The additions of any sexually oriented business to any other existing sexually oriented business; or
 - (d) the relocation of any sexually oriented business; or
 - (e) a sexually oriented business or premises on which the sexually oriented business is located. (Ord. 2004-8, S10, Apr. 21, 2004)

- (32) Family: One or more persons each related to the other by blood, marriage, or adoption, or a group of not more than three persons not all so related, together with his or their domestic servant, maintaining a common household in a dwelling unit. A family may include not more than two roomers, boarders, or permanent guests -- whether or not gratuitous. (Ord. 1993-17, S702.22, 1993; Ord. 896, S702.19, 1977)
- (33) Fence: A structure serving as an enclosure, barrier or boundary. (Ord. 1993-17, S702.23, 1993; Ord. 896, S702.20, 1977)
- (34) Flood Hazard Areas: Those flood plains which have not been adequately protected from flooding by means of dikes, levees, reservoirs or other works approved by Natural Resources. (Ord. 1993-17, S702.24, 1993; Ord. 896, S702.21, 1977)
- (35) Flood or Floodwater: The water of any river or stream which is above the banks and/or outside the channel and banks of such river or stream. (Ord. 1993-17, S702.25, 1993; Ord. 896, S702.22, 1977)
- (36) Flood Protection Grade: The elevation of the lowest floor of a building, including the basement of the structure. Exception: If a commercial or industrial building is floodproofed as hereinafter defined, the term applies to the water surface elevation for which the building is protected. (Ord. 1993-17, S702.26, 1993; Ord. 1082, S3, 1982; Ord. 896, S702.23, 1977)
- (37) Floodproofed Building: A commercial or industrial building designed to exclude floodwaters from the interior of that building. All such floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred-year frequency flood. (Ord. 1993-17, S702.27, 1993; Ord. 1082, S3, 1982)
- (38) Floodway District: That area designated as a "Commission Floodway" by Natural Resources. (Ord. 1993-17, S702.28, 1993; Ord. 896, S702.24, 1977)
- (39) Floodway Fringe District: Those portions of flood hazard areas lying outside the floodway district. (Ord. 1993-17, S702.29, 1993; Ord. 896, S702.25, 1977)
- (40) Floor Area of a Building: (For determining off-street parking and loading requirements). The sum of the gross horizontal areas of the several floors of the building or portion thereof, devoted to a specific use, including accessory storage areas located within selling or working space such as counters, racks, or closets; and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. (Ord. 1993-17, S702.30, 1993; Ord. 896, S702.26, 1977)
- (41) Front Yard: The space not containing any structures between a structure and thoroughfare right-of-way line. (Ord. 1993-17, S702.31, 1993; Ord. 896, S702.27, 1977)
- (42) Grade: The average level of the finished surface on the ground adjacent to the exterior walls of the building or structure. (Ord. 1993-17, S702.32, 1993; Ord. 896, S702.28, 1977)

- (43) Home Child Care: Daily care in a private home by an adult resident of said dwelling of not more unrelated children than the number for which providing care would require licensing by the State. (Ord. 1993-17, S702.33, 1993)
- (44) Home Occupation: An occupation or activity conducted entirely within a dwelling or accessory structure by the occupants thereof, which is clearly incidental and secondary to the use of the building for dwelling purposes. (Ord. 1993-17, S702.34, 1993; Ord. 896, S702.29, 1977)
- (45) Industrial, Heavy: The manufacturing, storage, processing, assembling, fabrication, or repairing of any materials or products where no continuous process involved will produce noise, vibration, electrical disturbance, air pollution, water pollution, heat, glare, waste matter, odor, or fire hazard which will disturb or endanger any neighboring property and where operations and storage may be in open areas. (Ord. 1993-17, S702.35, 1993; Ord. 896, S702.30, 1977)
- (46) Industrial, Light: The manufacturing, storage, processing, assembly, fabrication, or repairing of certain materials or products where no process involved will produce noise, vibration, electrical disturbances, air pollution, water pollution, heat, glare, waste matter, odor or fire hazard which will disturb or endanger any neighboring property and where all operations and storage are entirely within enclosed buildings or fenced areas. (Ord. 1993-17, S702.36, 1993; Ord. 896, S702.31, 1977)
- (47) Junk Yards & Salvage Yards: An open area where waste, scrap material or two or more motor vehicles not in running or operable condition or parts thereof are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, but excluding uses established entirely within closed buildings. (Ord. 1993-17, S702.37, 1993; Ord. 896, S702.32, 1977)
- (48) kennel: Any premises or portions thereof on which more than four dogs, cats, or other household domestic animals over four months of age are kept or on which more than two such animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale. (Ord. 1999-37, S1, 1999; Ord. 1998-3, 1998; Ord. 1993-17, S702.38, 1993; Ord. 896, S702.33, 1977)
- (49) Lot: A tract or parcel of land of at least sufficient size to meet minimum zoning requirements for use and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a public street. (Ord. 1993-17, S702.39, 1993; Ord. 896, S702.34, 1977)
- (50) Lot of Record: A lot that is part of a subdivision, the plat of which has been recorded in the office of the County Recorder, or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office of the clerk, provided such lot was of a size that met the minimum dimensions for lots in the district in which it was located at the time of the recording or was recorded prior to the effective date of zoning in the area where the lot is located. (Ord. 1993-17, S702.40, 1993; Ord. 896, S702.35, 1977)

- (51) Lot, Corner: A lot situated at the intersection of two or more streets. (Ord. 1993-17, S702.41, 1993; Ord. 896, S702.36, 1977)
- (52) Lot, Through: A lot having frontage on two non-intersecting streets as distinguished from a corner lot. Both street lines shall be deemed front lot lines. (Ord. 1993-17, S702.42, 1993; Ord. 896, S702.37, 1977)
- (53) Lot, Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries. (Ord. 1993-17, S702.43, 1993; Ord. 896, S702.38, 1977)
- (54) Lot, Width: The horizontal distance between the side lot lines of a lot, measured at right angles to the lot depth at the established front building line. (Ord. 1993-17, S702.44, 1993; Ord. 896, S702.39, 1977)
- (55) Massage Parlor means any place where, for any form or consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas". The definition of sexually oriented businesses shall not include the practice of massage in or by any licensed hospital; nor by a licensed physician, surgeon, chiropractor or osteopath; nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath; nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program; nor by any person or entity licensed according to the State of Indiana guidelines. (Ord. 2004-8, S10, Apr. 21, 2004)
- (56) Mobile Home: A factory-fabricated building built on a chassis and so constructed as to permit its being towed upon public thoroughfares and designed to be used for year-round living when connected to the required utilities. Mobile Home includes expandables. (Ord. 1993-17, S702.45, 1993; Ord. 896, S702.40, 1977)
- (57) Mobile Home Park: An area of land under single ownership used for the parking of two or more occupied mobile homes. (Ord. 1993-17, S702.46, 1993; Ord. 896, S702.41, 1977)
- (58) Mobile Home Site: The area of land in a mobile home park for the parking of one mobile home. (Ord. 1993-17, S702.47, 1993; Ord. 896, S702.42, 1977)
- (59) Mobile Home Subdivision: A residential subdivision designed exclusively for and occupied by mobile homes in which the homes and the land are owned by the same person. (Ord. 1993-17, S702.48, 1993; Ord. 896, S702.43, 1977)
- (60) Modular Homes: A factory-fabricated transportable building designed to be used alone or to be incorporated with similar units at a building site and designed and constructed with a

- perimeter frame to become a permanent structure on a site, with all outside walls supported by a permanent foundation. A modular home is a single-family dwelling for purposes of this Ordinance. (Ord. 1993-17, S702.49, 1993; Ord. 896, S702.44, 1977)
- (61) Natural Resources: The Indiana Natural Resources Commission. (Ord. 1993-17, S702.50, 1993; Ord. 896, S702.45, 1977)
- (62) Non-Conforming Use: Non-Conforming Use is any use or arrangement of land or structures legally existing at the time of enactment of this Ordinance or any of its amendments, which does not conform to the provisions of this Ordinance. (Ord. 1993-17, S702.51, 1993; Ord. 896, S702.46, 1977)
- (63) Non-Conforming Structures: A structure designed, converted, or adapted for a use prior to the adoption of provisions prohibiting such use or structure in such location. (Ord. 1993-17, S702.52, 1993; Ord. 896, S702.47, 1977)
- (64) Nudity or a State of Nudity means the appearance of a human bare buttock, anus, anal cleft or cleavage, public area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered. (Ord. 2004-8, S10, Apr. 21, 2004)
- (65) Off-Street Parking: The provision of parking spaces which are not located on any public right-of-way. (Ord. 1993-17, S702.53, 1993; Ord. 896, S702.48, 1977)
- (66) Operate, cause to be operated, operator means and includes the owner, permit holder, custodian, manager, operator or person in charge of any sexually oriented business. (Ord. 2004-8, S10, Apr. 21, 2004)
- (67) Person means an individual, proprietorship, partnership, corporation, association, or other legal entity (Ord. 2004-8, S10, Apr. 21, 2004)
- (68) Portable Sign: A sign of any size or shape that is not permanently attached or mounted to a building or pole, i.e. a sign mounted on legs, wheels, or sitting unattached on the ground. (Ord. 1993-17, S702.54, 1993; Ord. 1990-9, S702.70, 1990)
- (69) Public Building. Any building owner, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the United States, which building is used for governmental purposes. (Ord. 2004-8, S10, Apr. 21, 2004)
- (70) Public Park or Recreation Area. Public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities. (Ord. 2004-8, S10, Apr. 21, 2004)

- (71) Public Utility Structure: Electrical and telephone substations and distribution centers; filtration plant, pumping station, and water reservoir; public or package sewage treatment plants; telephone exchange; radio and television transmitting or relay stations; antenna towers and other similar public utility service structures. (Ord. 1993-17, S702.55, 1993; Ord. 896, S702.49, 1977)
- (72) Recreational Vehicle Park: An area of land used for the parking of two or more recreational vehicles. (Ord. 1993-17, S702.56, 1993; Ord. 896, S702.50, 1977)
- (73) Regularly Features or Regularly Shown means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business. (Ord. 2004-8, S10, Apr. 21, 2004)
- (74) Regulatory Flood Profile: A longitudinal profile along the thread of a stream showing the maximum water surface attained by the regulatory flood. (Ord. 1993-17, S702.57, 1993; Ord. 896, S702.51, 1977)
- (75) Religious Institution. Any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities. (Ord. 2004-8, S10, Apr. 21, 2004)
- (76) Residential District. Any area zoned A-1 (Agriculture), R-R (Rural Residential), R-1, R-2, R-3 or R-4 (Residential District). (Ord. 2004-8, S10, Apr. 21, 2004)
- (77) Residential Use. Any property used for single family, two-family or multiple family dwellings. (Ord. 2004-8, S10, Apr. 21, 2004)
- (78) School. Any public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, colleges and universities. The term "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school. (Ord. 2004-8, S10, Apr. 21, 2004)
- (79) Semi-Nude Or Semi-Nudity means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part. (Ord. 2004-8, S10, Apr. 21, 2004)
- (80) Semi-Nude Or Nude Model Studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed,

sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for money or any other type of consideration.

- (a) Semi Nude Model Studio shall not include a proprietary school licensed by the State of Indiana or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
 - (b) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
 - (c) Where in order to participate in a class a student must enroll at least three days in advance of the class; and
 - (e) Where no more than one nude or semi-nude model is on the premises at any one time. (Ord. 2004-8, S10, Apr. 21, 2004)
- (81) Setback: The minimum horizontal distance between the front line of a building or structure and the street right-of-way line. (Ord. 1993-17, S702.58, 1993; Ord. 896, S702.52, 1977)
- (82) Sexual Encounter Establishment means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of engaging in "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one of more of the persons is in a state of nudity or semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy. (Ord. 2004-8, S10, Apr. 21, 2004)
- (83) Sexually Oriented Business(es) means an adult arcade, adult bookstore or adult novelty store or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, massage parlor, semi-nude or nude model studio, or sexual encounter establishment. (Ord. 2004-8, S10, Apr. 21, 2004)
- (84) Sexually Oriented Entertainment Activity means the sale, rental, or exhibition for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances which are characterized by an emphasis on the exposure or display of "specified sexual activities" or "specified anatomical areas." (Ord. 2004-8, S10, Apr. 21, 2004)
- (85) Sign: A name, identification, description, display, or illustration which is affixed to or represented directly or indirectly upon a building, structure, or tract of land and which directs attention to an object, product, place, activity, person, institution, organization, or

business. A "Sign" shall not include: (a) the display of official court or public office notices; (b) the flag, emblem, or insignia of a nation, political unit, school or religious group; (c) one located completely within an enclosed building except signs located behind window areas intended to be viewed from outside the building. (Ord. 1993-17, S702.59, 1993; Ord. 896, S702.53, 1977)

- (86) Sign, Advertising: A sign including a billboard which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such a sign is located or to which it is affixed. (Ord. 1993-17, S702.60, 1993; Ord. 896, S702.54, 1977)
- (87) Sign, Business: A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is affixed. (Ord. 1993-17, S702.61, 1993; Ord. 896, S702.55, 1977)
- (88) Sign, Gross Area of: The entire area within a single continuous perimeter enclosing the extreme limits of such sign. Such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display. (The sign area is the area of one rectangle parallel to the horizon which surrounds all words, logos, symbols, lighting, and messages plus a one (1) inch border. This is applicable to pole signs only. (Ordinance No. 1994-37, S1, 1994) (Ord. 1993-17, S702.62, 1993; Ord. 896, S702.56, 1977)
- (89) Specified Anatomical Areas means any of the following:
- (a) the human male genitals in a discernibly turgid state, even if fully and opaquely covered;
 - (b) less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola. (Ord. 2004-8, S10, Apr. 21, 2004)
- (90) Specified Sexual Activities means and includes any of the following:
- (a) the fondling or other erotic or intentional touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
 - (b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (c) masturbation, actual or simulated;
 - (d) human genitals in a state of sexual stimulation, arousal or tumescence;
 - (e) ultimate sexual acts, normal or perverted, actual or simulated, including intercourse, masturbation, excretory functions, or lewd exhibition of the genitals,

whether between humans, a human and an animal, or for the purpose of sadomasochistic sexual abuse or stimulation. (Ord. 2004-8, S10, Apr. 21, 2004)

- (91) Spot Zoning: The zoning of a lot or lots to a specific zoning district which has no relationship to the appearance or character of the surrounding land uses or zoning districts. (Ord. 1993-17, S702.63, 1993; Ord. 896, S702.57, 1977)
- (92) Street: See (68), Thoroughfare. (Ord. 1993-17, S702.64, 1993; Ord. 896, S702.58, 1977)
- (93) Strip Development: The zoning or use of relatively narrow, comparatively long parcels of land along the frontage of thoroughfares. These parcels being of a different zoning classification or land use than those parcels which they front. (Ord. 1993-17, S702.65, 1993; Ord. 896, S702.59, 1977)
- (94) Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, except public utility, communication and electrical transmission lines and equipment and facilities supporting the same and/or incidental thereto. (Ord. 1993-17, S702.66, 1993; Ord. 896, S702.60, 1977)
- (95) Substantial Enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than fifteen percent (15%), as the floor areas exist on the date this Ordinance takes effect or on the date of an initial application or renewal, if such application or renewal is required. (Ord. 2004-8, S10, Apr. 21, 2004)
- (96) Supply Yards: A commercial establishment storing or offering for sale, building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the wrecking, salvaging, dismantling or storage of automobiles and similar vehicles. (Ord. 1993-17, S702.67, 1993; Ord. 896, S702.61, 1977)
- (97) Thoroughfare: An improved right-of-way which affords the principal means of access to abutting property and having the following designations:
 - (a) Urban Arterial Streets are major traffic arteries designed to handle fast or heavy traffic and generally connecting points of major traffic generation.

Urban Principal Arterial

1. Newton Street (U.S. 231) - between County Road 550 North and 6th Street.
2. 6th Street (U.S. 231) - between Newton Street and MacArthur Street.
3. U.S. 231 - between MacArthur Street and County Road 250 South.

Urban Minor Arterial

1. 2nd Street - between Newton Street and U.S. 231
 2. 6th Street (State Road 56) - between MacArthur Street and County Road 400 West.
 3. Newton Street - between 2nd Street and 6th Street.
 4. Hoffman Road - between State Road 56 and U.S. 231.
 5. 3rd Avenue (S.R. 162) - between Newton Street and County Road 250 South.
 6. State Road 164 - between 3rd Avenue (S.R. 162) and County Road 200 East.
 7. 15th Street - between Newton Street (U.S. 231) and Kellerville Road.
 8. 30th Street - between Newton Street (U.S. 231) and Cathy Lane.
 9. Cathy Lane - between 30th Street and Kellerville Road.
 10. Kellerville Road - between 15th Street and County Road 400 North.
 11. Bartley Street.
 12. St. Charles Street.
- (b) Urban Collector Streets are streets which carry traffic from local streets to the arterial street system, including the principal entrance streets of a residential development and streets for circulation within such a development.

Urban Major Collector

1. County Road 400 North - between U.S. 231 and Portersville Road.
2. 36th Street (County Road 300 North) - between U.S. 231 and Portersville Road.
3. 15th Street - between Kellerville Road and Meridian Road.
4. 13th Street - between Mill Street and St. Charles Street.
5. 9th Street - between Mill Street and State Road 56.

6. 6th Street - between Mill Street and Newton Street (U.S. 231).
7. Courthouse Square.
8. 3rd Street - between Newton Street (U.S. 231) and Clay Street.
9. 1st Street - between Jackson Street and Clay Street.
10. Clay Street - between 3rd Street and Wernsing Road.
11. Church Avenue.
12. Division Road - between Wernsing Road and County Road 300 West.
13. Truman Road - between State Road 56 and Division Road.
14. Northwood Avenue.
15. Portersville Road - between County Road 400 North and 36th Street.
16. Westwood Boulevard.
17. Main Street - between 15th Street and 3rd Street.
18. Jackson Street - between 15th Street and 1st Street.
19. Mill Street - between 3rd Street and 30th Street.
20. Meridian Road - north from County Road 200 South.
21. Jasper-Dubois Road.
22. Brucke Strasse

Urban Minor Collector

1. County Road 400 North - between U.S. 231 and Kellerville Road.
2. Ackerman Road (County Road 350 North).
3. 36th Street (County Road 300 North) - between Mill Street and U.S. 231.
4. 33rd Street.
5. Schuetter Road (County Road 200 North).

6. 15th Street - between Newton Street (U.S. 231) and State Road 56.
7. County Road 150 North - between County Road 350 West and County Road 400 North.
8. 8th Street - between Mill Street and Bartley Street.
9. 7th Street - between Mill Street and Bartley Street.
10. 5th Street - between Mill Street and Clay Street.
11. Division Road - between County Road 300 West and County Road 450 West.
12. County Road 100 South - between State Road 162 and County Road 300 West.
13. County Road 125 South - between Justin Street and Meridian Road.
14. County Road 400 West.
15. County Road 365 West.
16. Wernsing Road - between 4th Avenue and 12th Avenue.
17. 12th Avenue - between Habig Avenue and Kimball Boulevard.
18. Kimball Boulevard - between 12th Avenue and County Road 100 South.
19. Mill Street - between 30th Street and 36th Street.
20. County Road 350 West - between County Road 300 North and County Road 150 North.
21. County Road 300 West - between State Road 56 and Division Road.
22. Portersville Road - between County Road 525 North and County Road 400 North.
23. Emily Street.
24. Dorbett Street.
25. Clay Street - between 9th Street and 3rd Street.
26. Giesler Road.

- 27. Brames Road.
- 28. Justin Street.
- (c) Local Streets are streets which are used primarily for access to the abutting properties but do not provide for through-traffic. All streets not classified above.
- (d) Cul-De-Sac Streets are minor streets with only one outlet, having a paved, circular turn-around area at the closed end. (Ord. 1993-17, S702.68 a-d, 1993; Ord. 1991-2, 1991; Ord. 1000, S1, 1980; Ord. 896, S702.62 a-d, 1977)
- (98) Transfer of Ownership or Control of a sexually oriented business means and includes any of the following:
 - (a) the sale, lease, or sublease of the business;
 - (b) the transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
 - (c) the establishment of a trust, gift, or other similar legal device that 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. (Ord. 2004-8, S10, Apr. 21, 2004)
- (99) Underground Home: A dwelling constructed either partially or completely below grade, designed and used exclusively for residential occupancy. (Ord. 1993-17, S702.69, 1993; Ord. 896, S702.63, 1977)
- (100) Use: The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained. (Ord. 1993-17, S702.70, 1993; Ord. 896, S702.64, 1977)
- (101) Yard: An open space on the same lot with a building or structure, unoccupied and unobstructed from its lowest level upward, except as otherwise permitted by this Ordinance. (Ord. 1993-17, S702.71, 1993; Ord. 896, S702.65, 1977)
- (102) Yard, Front: A yard extending along the full length of the front lot line between the side lot lines. (Ord. 1993-17, S702.72, 1993; Ord. 896, S702.66, 1977)
- (103) Yard, Rear: A yard extending along the full length of the rear lot line between the side lot lines. (Ord. 1993-17, S702.73, 1993; Ord. 896, S702.67, 1977)
- (104) Yard, Side: A yard extending along a side lot from the front to the rear yard. (Ord. 1993-17, S702.74, 1993; Ord. 896, S702.68, 1977)

Chapter 16.33

FLOOD DISTRICT(S) AND FLOOD DAMAGE PREVENTION

Sections:

16.33.010	Statutory Authorization.
16.33.020	Statement of Purpose.
16.33.030	Definitions.
16.33.040	Duties of the Zoning Administrator.
16.33.050	Regulatory Flood Elevation.
16.33.060	Improvement Location Permit.
16.33.070	Preventing Increased Damages.
16.33.080	Protecting Buildings.
16.33.090	Other Development Requirements.
16.33.100	Variances.
16.33.110	Disclaimer of Liability.
16.33.120	Violations.
16.33.130	Abrogation and Greater Restrictions.
16.33.140	Separability.
16.33.150	Effective Date.

16.33.010 Statutory Authorization. The Indiana Legislature granted the power to local units of government (IC 36-7-4) to control land use within their jurisdiction in order to accomplish the following. (Ord. 1994-30, S16.33.010, 1994; Ord. 1993-17, S16.33.010, 1993)

16.33.020 Statement of Purpose. The purpose of this Chapter (ordinance) 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 City Council hereby adopts the following floodplain management regulations in order to accomplish the following:

- (1) to prevent unwise developments from increasing flood or drainage hazards to others;
- (2) to protect new buildings and major improvements to buildings from flood damage;
- (3) to protect human life and health from hazards of flooding;
- (4) 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;
- (5) to maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

- (6) to make federally subsidized flood insurance available for property in the City of Jasper by fulfilling the requirements of the National Flood Insurance Program. (Ord. 1994-30, S16.33.020, 1-6, 1994; Ord. 1993-17, S16.33.020, 1-6, 1993)

16.33.030 Definitions. For the purpose of this Chapter (ordinance), 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 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, 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 the floodplain management regulations adopted by a community.

- (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 manufactured 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) FHBM - means Flood Hazard Boundary Map.
- (7) FEMA - means Federal Emergency Management Agency
- (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 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" - means the elevation of the regulatory flood plus two feet at any given location in the SFHA.
- (12) Floodway - means the channel of a river or stream and those portions of the flood plains 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 hazard areas lying outside the floodway.
- (14) Letter of Map Amendment (LOMA) - means 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 a FEMA.
- (15) Letter of Map Revision (LOMR) - means 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 basement floor;
 - (b) the top of the garage floor, if the garage is the lowest level of the building;

- (c) the top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
- (d) 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 floodplain management regulations adopted by a community.
- (19) Recreation vehicle - means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.
- (20) Regulatory Flood - means the flood having a one 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. The regulatory flood elevation at any location is as defined in Section 16.33.050 of this ordinance. 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 City that are subject to inundation by the regulatory flood. The SFHAs of the City are generally identified as such on the Flood Insurance Rate Map of the City prepared by the Federal Emergency Management Agency and dated October 18, 1994. The SFHAs of those parts of unincorporated Dubois County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Hazard

Boundary Map prepared for Dubois County by the Federal Emergency Management Agency and dated June 10, 1977.

- (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 and travel trailers 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 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 structures continued designation as a "historic structure". (Ord. 2002-22, S1, S2, June 26, 2002) (Ord. 1994-30, S16.33.030, 1994; Ord. 1993-17, S16.33.030, 1-19, 1993)

16.33.040 Duties of the Zoning Administrator. The Zoning Administrator for the City of Jasper is appointed to review all development and subdivision proposals to insure compliance with this ordinance, including but not limited to the following duties:

- (1) Ensure that all development activities within the SFHAs of the jurisdiction of the City meet the requirements of this Chapter (ordinance).
- (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 16.33.070 of this Chapter (ordinance), and maintain a record of such authorization (either copy of actual permit or letter of recommendation).
- (4) Maintain a record of the "as-built" elevation of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA.
- (5) Maintain a record of the engineer's certificate and the "as built" floodproofed elevation of all buildings subject to Section 16.33.080 of this Chapter (Ordinance).
- (6) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this Chapter (ordinance). Submit reports as required for the National Flood Insurance Program.
- (7) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, copies of DNR permits and letters of recommendation, federal permit documents, and "as built" elevation and floodproofing data for all buildings constructed subject to this Chapter (ordinance).

- (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. 2002-22, S3, June 26, 2002) (Ord. 1994-30, S16.33.040, 1-7, 1994) (Ord. 1993-17, S16.33.030, 1-7, 1993)

16.33.050 Regulatory Flood Elevation. This Chapter's (ordinance'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 elevation and floodway limits for the SFHAs of the rivers and creeks shall be delineated on the 100-year flood profiles in the Flood Insurance Study of the City dated October 18, 1994 and the corresponding FIRM dated October 18, 1994 prepared by the Federal Emergency Management Agency.
- (2) The regulatory flood elevation for each SFHA delineated as a "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the City.
- (3) The regulatory Flood Elevation for each of the remaining SFHAs delineated as a "A Zone" on the Flood Insurance Rate Map of the City shall be according to the best data available as provided by the Department of Natural Resources.
- (4) The regulatory flood elevation and floodway limits for the SFHAs of those parts of unincorporated Dubois County identified as "Zone A" on the Flood Hazard Boundary Map for Dubois County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City shall be according to the best data available as provided by the Department of Natural Resources.

If the SFHA is delineated as "AH Zone or AO Zone", the elevation (or depth) will be 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. 1994-30, S16.33.050, 1-4, 1994; Ord. 1993-17, S16.33.050, 1-4, 1993)

16.33.060 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 Chapter (ordinance).

- (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 located 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 structure locations and existing and proposed land grades.
 - (e) Elevation of the top of the lowest floor (including basement) of all proposed structures. 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) 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.
 - (b) 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 Section 16.33.070 and 16.33.080 of this Chapter (ordinance) 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.
 - (c) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream of the site is greater than one 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 letter of recommendation 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 letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the ILP are not less restrictive than the conditions received from Natural Resources and the provisions contained in Section 16.33.070 and 16.33.080 of this Chapter (ordinance) 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 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 16.33.070 and 16.33.080 of this Chapter (Ordinance) have been met. (Ord. 2002-22, S4, S5, June 26, 2002) (Ord. 1994-30, S16.33.060, 1&2, 1994) (Ord. 1993-17, S16.33.060, 1&2, 1993)

16.33.070 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 16.33.060(2)(d), the following standards shall apply:
 - (a) No development shall be allowed which acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and
 - (b) For all projects involving channel modifications or fill (including levees) the City shall submit a request to the Federal Emergency Management Agency to revise 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:
 - (a) 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 foot and will not increase flood damages or potential flood damages.
- (3) Public Health Standards in all SFHA.
 - (a) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials unless they are stored in a storage tank or floodproofed building

constructed according to the requirements of section 16.33.080 of this Chapter (ordinance).

- (b) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the FPG are watertight. (Ord. 2002-22, S6, June 26, 2002) (Ord. 1994-30, S16.33.070, 1-3, 1994; Ord. 1993-17, S16.33.070, 1-3, 1993)

16.33.080 Protecting Buildings. In addition to the damage prevention requirements of Section 16.33.070, 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) construction or placement of any new building having a floor area greater than 400 square feet;
 - (b) structural alternations made to an existing building that increase the market value of the building by more than 50% (excluding the value of the land);
 - 1. any subsequent alterations;
 - (c) reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred;
 - (d) installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance 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) installing a 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 standards as required in Section 16.33.040 of this Chapter (ordinance).
 - (a) 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 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
 - 2. The fill should extend at least ten 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 3 horizontal to 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 (see definition of lowest floor in Section 16.33.030. Definitions) shall be at or above the FPG.
- (b) 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 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 opening 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 current, waves, ice, and floating debris.
 3. All areas below the FPG shall be constructed of materials resistant to flood damage. 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) Manufactured homes and travel trailers (also called 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. 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 36 inches in height above grade and be 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 in an existing manufactured home park of subdivision that has not been substantially damaged by a flood.

(d) Recreation 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) of this section.

(e) 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. 2002-22, S7, S8, June 26,

2002) (Ord. 1994-30, S16.03.080, 1&2, 1994; Ord. 1993-17, S16.03.080, 1&2, 1993)

16.33.090 Other Development Requirements.

- (1) The (Plan Commission, Zoning Administrator, or other review agency or official) shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the (review agency or official finds the subdivision to be so located, the review agency or individual) shall forward plans and materials to the Indiana Department of Natural Resources for review and comments. The (review agency or individual) 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 ordinance as 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 FHMB or FIRM develop an evacuation plan for those lots located in Zone A and file it with the local Plan Commission and have it filed and approved by the appropriate community emergency management authorities. (Ord. 1994-30, S16.03.090, 1-3, 1994; Ord. 1993-17, S16.33.090, 1-3, 1993)

16.33.100 Variances.

- (1) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this Chapter (ordinance) providing 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 Chapter (ordinance) 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 Chapter (ordinance) subject to the following standards and conditions:
 - (a) No variance or exception for a residential use within a floodway subject to Section 16.33.070 (1) or (2) may be granted.
 - (b) Any variance or exception granted in a floodway subject to Section 16.33.070 (1) or (2) will require a permit from Natural Resources.
 - (c) Variances or exceptions to the Building Protection Standards of Section 16.33.080 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) Variance or exception 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, 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. 1994-30, S16.33.100, S1&2, 1994; Ord. 1993-17, S16.33.100, S1&2, 1993)

16.33.110 Disclaimer of Liability. The degree of flood protection required by this Chapter (ordinance) 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 ordinance 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 Chapter (ordinance) or any administrative decision made lawfully thereunder. (Ord. 1994-30, S16.33.110, 1994; Ord. 1993-17, S16.33.110, 1993)

16.33.120 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 Chapter (ordinance). All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of Jasper.

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

- (2) The Jasper Plan Commission 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 City 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. 1994-30, S16.33.120, 1-3, 1994; Ord. 1993-17, S16.33.120, 1-3, 1993)

16.33.130 Abrogation and Greater Restrictions. This ordinance repeals and replaces other ordinances adopted by the City Council to fulfill the requirements of the National Flood Insurance Program. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the City Council shall assure that all National Flood Insurance Program regulations (44 CFR Sect. 60) as well as Indiana laws and regulations regarding floodplain issues (312 IAC 10, IC 14-28-1 and IC 14-28-3) are met. (Ord. 2002-22, S9, June 26, 2002) (Ord. 1994-30, S16.33.130, 1994; Ord. 1993-17, S16.33.130, 1993)

16.33.140 Separability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions thereunder. (Ord. 2002-22, S10, June 26, 2002) (Ord. 1994-30, S16.33.140, 1994; Ord. 1993-17, S16.33.140, 1993)

16.33.150 Effective Date. This ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor, and completion of any other legal requirements, all in the manner as provided by law. (Ord. 2002-22, S11, June 26, 2002) (Ord. 1994-30, S16.33.150, 1994; Ord. 1993-17, S16.33.150, 1993)