

ARTICLE 11 DEFINITIONS

Section 21-11 DEFINITIONS.

Section 21-11.01 Interpretation of Terms or Words

The language of this Ordinance shall be interpreted in accordance with the following regulations:

- (a) The word "person" includes a firm, association, organization, partnership, trust, limited liability company, corporation, or other legal entity, as well as an individual;
- (b) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, in each case, if the context so requires;
- (c) The word "shall" is mandatory, the word "may" is permissive;
- (d) The words "used" or "occupied" include the words "intended", "designed", "constructed", "altered", or "arranged" to be used or occupied;
- (e) The word "lot" includes the words "plot", "tract", or "parcel"; and
- (f) Where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and", "or", or "either ... or", the conjunction shall be interpreted as follows:
 - (g) "And" indicates that all the connected items, conditions, provisions or events shall apply.
 - (h) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - (i) "Either ... or" indicates that all the connected items, conditions, provisions or events shall apply singly but not in combination.
- (j) The terms "more intense" and "less intense" are terms used herein to describe relationships between particular *districts*. This relationship is based upon the uses permitted within each *district*. A "more intense" *district* permits more uses or a greater density of uses than a "less intense" *district*. District intensity groupings progress from Agricultural, to Residential, to Commercial, to Industrial *districts*, in the sequence listed within each group of *districts* from least intense to the most intense.

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Section 21-11.02 Definitions

The following terms or words used in the text of this Ordinance shall have the following meanings, unless a contrary meaning is: (i) required by the context of a particular sentence or phrase; or, (ii) specifically prescribed in a particular sentence or phrase:

Abandoned: A condition that exists after a voluntary act or failure to act by the owner of a nonconforming use which evidences that the owner neither claims nor retains the right to exercise the nonconforming use.

Access: The way in which vehicles ingress and egress a *lot* from a *street* fronting along said *lot*.

Access Drive: That area within the *right-of-way* between the pavement edge or curb and the *right-of-way* line to provide ingress and egress to and from a *lot*.

Accessory (*Structure, Building or Use*): A subordinate *structure, building or use* that is customarily associated with, and is appropriately and clearly incidental and subordinate in *use, size, bulk, area and height* to the *primary structure, building, or use*, and is located on the same *lot* as the *primary building, structure, or use*.

Accessory Parking Lot: See *Parking Lot, Accessory*.

Adult Cabaret: See *Cabaret – Adult*.

Agricultural Use: An operation which consists of the following *uses*, individually or in combination: the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, or other agricultural crops; *uses accessory* to agricultural operations on the site; or, *uses accessory* to agricultural operations in the area.

Agricultural Nonconforming Use: An *agricultural use* of land that is not permitted under this Ordinance, including any amendments hereto.

Alley, Private: A *private right-of-way* for public use as a secondary means of public *access* to a *lot* otherwise abutting upon a *public street* or *private street* and not intended for traffic other than public services and circulation to and from said *lot*.

Alley, Public: Any *public right-of-way* which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public *access* to a *lot* otherwise abutting upon a *public street* and not intended for traffic other than public services and circulation to and from said *lot*.

Amusement Arcade: Any establishment which keeps, maintains or operates for hire on the premises four (4) or more amusement devices, including by way of example: automatic baseball court, shooting gallery, pinball machines, tenpin machines, electronic or video game machines, prize machines, and the like. An establishment which has four (4) or more amusement devices, and which establishment does not dedicate and/or derive its business and/or income primarily from these amusement devices, shall not be considered a *Controlled Use*. (Ord. 9760-07).

Amusement Center: Any indoor and/or outdoor establishment which keeps, maintains or operates for hire on the premises one (1) or more recreational activities, including by way of example: go-cart tracks, skateboard facilities, water slides, model car or model railroad tracks, ice and roller skating rinks, and the like. Establishments of this type generally charge fees for each activity, and may include food, beverage, *Amusement Arcade* and waiting areas. (Ord. 9760-07)

Amusement Park: A primarily outdoor establishment which keeps, maintains and operates on the premises one (1) or more recreational activities, including by way of example: roller coasters, water slides, merry-go-rounds, plays, dance shows, and any and all assortment of mechanical rides, amusement booths, restaurants, and snack areas. Establishments of this type generally have controlled access to the entire facility, and have a general admission charge. Selected venues within the Park may have additional fees and/or charges and may include elements of an *Amusement Arcade* and an *Amusement Center*. (Ord. 9760-07)

Antenna: Any *structure* or device designed and used to:

- (a) receive direct broadcast satellite service, including direct-to-home satellite services;
- (b) receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services;
- (c) receive television broadcast signals; or,
- (d) collect or radiate electromagnetic waves, including both directional *antennas*, such as *panel antenna*, and *dish antenna*, and omni-directional *antennas*, such as *whip antennas*, but no including satellite earth stations.

Antenna Array: A *structure* attached to a *telecommunications tower* that supports a *telecommunications antenna*.

Antenna, Dish: A dish shaped device which may be free standing or mounted on a *building* or *structure* and is designed to receive direct broadcast satellite service.

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Antenna, Flagpole: A *telecommunications tower* designed to appear and function as a large diameter flagpole where *panel antenna* are integrally designed into and located inside of a *telecommunications tower* and are not visible from the exterior. A *flagpole antenna* may or may not include flying of a flag. *Flagpole antenna* may be ground mounted or *roof-mounted*.

Antenna, Non-Whip: An *antenna* which is not a *whip antenna*, such as *dish antennas*, *panel antennas*, etc.

Antenna, Panel: A flat, rectangular *antenna* or *antenna array* designed to concentrate a radio signal in a particular area. *Panel antenna* are also known as *directional antenna* or *sectored antenna*.

Antenna, Radio/Television: A wire or combination of wires and support *structures* designed for directly transmitting electric waves (broadcast radio or television) into space, or receiving them therefrom.

Antenna, Slick: *Panel antennas* that are mounted directly to tapering monopole *telecommunications tower* where the furthest point of the *panel antenna* is no greater than eighteen (18) inches from the exterior of the tapering monopole *telecommunications tower*.

Antenna, Telecommunication: An *antenna* used to provide a *telecommunications service*.

Antenna, Stealth: An *antenna* or *antenna array* placed on or in an existing or proposed *building*, *structure*, or *telecommunications tower* and designed or placed in a manner intended to disguise, hide, or minimize the appearance of such *antenna* or *antenna array*. A *stealth antenna* may or may not have a secondary function (e.g., bell tower, church steeple, spire, flagpole, clock tower, cupola, etc.). *Stealth antenna* may include, but are not limited to: (a) *flagpole antenna*; (b) *slick antenna*; or, (c) a *surface-mount antenna* with a color and appearance that is compatible with or blends with the color and materials of the surface of the *building* or *structure* to which the *surface-mount antenna* is attached.

Antenna, Whip: An omni-directional dipole *antenna* of cylindrical shape which is no more than six (6) inches in diameter.

Approved Hotel: See *Hotel, Approved*.

Area Plan Commission: The Area Plan Commission of St. Joseph County, Indiana, established pursuant to the Area Planning Law of the State of Indiana.

Artificial Lake: Either: (a) an artificially created body of water which is not required in connection with a storm water management system; or, (b) that portion of an artificially

created body of water developed in connection with a storm water management system which exceeds the capacity required to manage the 100 year storm event.

Assembly (when used in reference to an industrial operation): The fitting together of previously manufactured parts or sub-assemblies, that do not require additional manufacturing or machining, into a finished item or unit.

Associated Sphere of Influence: The area described as follows: Beginning at the point of intersection of the centerline of Jefferson Boulevard and the center of the St. Joseph River; thence southeasterly along the center of the St. Joseph River to the centerline of Monroe Street extended; thence southwesterly along the centerline of Monroe Street and its extension to the centerline of Lincolnway East; thence southeasterly along the centerline of Lincolnway East to the extended centerline of the east-west alley between South and Bronson Streets; thence west along the centerline of said alley and its extension to the north right-of-way line of said alley and its extension to the north right-of-way line of the Penn Central Railroad; thence west along said right-of-way line to the extended centerline of the north-south alley located between Williams and Taylor Streets; thence north along the centerline of said alley and its extension to the centerline of Lincolnway West; thence northwesterly along the centerline of Lincolnway West to a point of intersection with the extended centerline of Taylor Street; thence northeasterly along the centerline of Taylor Street and its extension to a point of intersection with the extended centerline of the first north-south alley west of Portage Avenue; thence north along the centerline of said alley and its extension to the south line of Burrough's Sub Of B.O.L. 115; thence northeasterly along said south line to the east line of said sub.; thence north along said east line 7 feet to the centerline of the east-west alley; thence east along the centerline of said alley and its extension to the centerline of the north-south alley located between Niles Avenue and Hill Street; thence south along the centerline of said alley to the centerline of Jefferson Boulevard; thence west along the centerline of Jefferson Boulevard to the point of beginning.

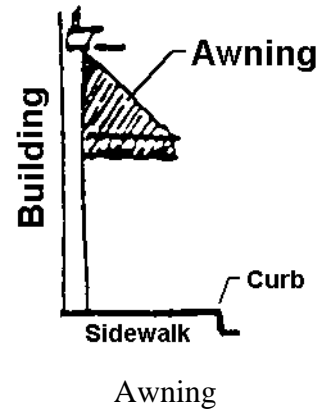
Authorized Agent: Any party duly authorized in writing by the Owner of a subject parcel to act on the Owner's behalf with respect to any *development petition*, including but not limited to a petition for: zone map change; platting of a *subdivision*; *development plan* approval; *variance*; or, vacation of land in a plat.

Automobile Repair - Major: Servicing and repairs which include muffler repair or installation, brake repair or installation, shock replacement, transmission repair, tire recapping, motor overhaul, or body or fender repair work (not including the dismantling or wrecking of motor vehicles, or the storage of inoperable, damaged or wrecked vehicles, other than those awaiting immediate repair).

Automobile Repair - Minor: Servicing and repairs limited to tune-ups, oil changes, sale and installation of lubricants, tires, batteries and other minor maintenance operations.

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Awning: A roof-like cover, often of fabric, metal, plastic, fiberglass or glass designed and intended for protection from the weather or as a decorative embellishment, and which is supported by and projects from a wall or roof of a *building* or *structure* over a window, door, *sidewalk*, *walkway* or the like.



Banner: See *Sign, Banner*.

Bar: Premises used primarily for: the sale or dispensing of liquor by the drink for on-site consumption; and, where packaged liquor may be sold or food may be available for consumption on the premises as *accessory* to the *primary use*.

Basement: That portion of a *building* with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half or more of its interior vertical height clearance below *grade* level.

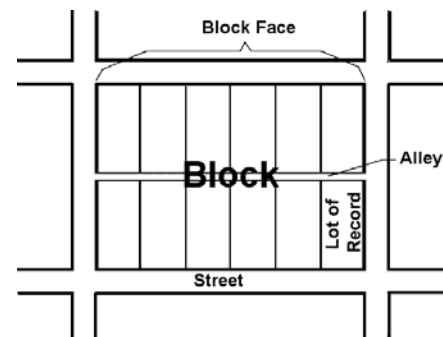
Bed & Breakfast: The commercial leasing of bedroom(s) for guest(s) within a private, owner-occupied, *single family dwelling unit* or *two family dwelling unit*. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee. Such leasing may also provide for the temporary accommodation of daytime meetings or receptions for guests for a fee. Such leasing caters largely to tourists and the traveling public.

Billiard Hall: See *Pool Hall*.

Bingo: A game of chance as defined in IC 4-32-6-3, and all other games of chance regulated by IC 4-32-1.

Block: A tract of land bounded by *streets*, or by a combination of *streets* and public parks, cemeteries, railroad *rights-of-way*, shorelines, or municipal boundary lines.

Block Face: The *frontage* of a *block*, which may contain one or more *lots*, along one side of a *public street* or *private street* between intersections.



Block & Block Face

Board of Zoning Appeals: The Area Board of Zoning Appeals of St. Joseph County Indiana. (Ord. 9917-09)

Boarding House: A *building* or part of a *building*, other than *hotels*, *motels*, restaurants, *Bed & Breakfast*, or *multifamily dwellings*, containing accommodation facilities in common where lodging, typically with

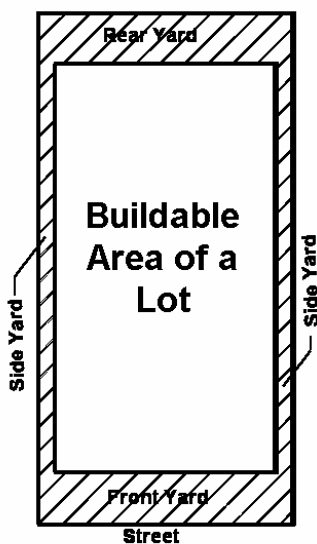
meals reserved solely for the occupants thereof, is provided, whether or not for compensation.

Bufferyard: See Residential Bufferyard.

Bufferyard, Front: See Residential Bufferyard, Front.

Bufferyard, Rear: See Residential Bufferyard, Rear.

Bufferyard, Side: See Residential Bufferyard, Side.



Buildable Area

antenna attached to a building or structure shall not be included in the calculation of building height.

Buildable Area: The area of a *lot* remaining after the *minimum yard* and *lot area* requirements of this Ordinance have been met and in which development may occur subject to compliance with all applicable *development standards*.

Building: Any *structure* having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

Building Commissioner: The duly appointed building commissioner for the City of South Bend, Indiana.

Building Height: The vertical distance measured from the average elevation of the proposed finished *grade* at the front of the *building* or *structure* to the highest point of the *building* (typically the roof) or *structure*, provided, however, appurtenances such as chimneys, spires, cupolas, steeples,

Building Line: A line parallel to any *front lot line*, *side lot line* or *rear lot line* which passes through the nearest point of any *building* or *structure*.

Building Line, Front: A line parallel to any *front lot line* which passes through the nearest point of any *building* or *structure* and terminates at the point of contact with any *side lot line*.

Building Line, Side: A line parallel to any *side lot line* which passes through the nearest point of any *building* or *structure* and terminates at the point of contact with any *front lot line* or *rear lot line*.

Building Line, Rear: A line parallel to any *rear lot line* which passes through the nearest point of any *building* or *structure* and terminates at the point of contact with any *side lot line*.

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Building Material: Exterior surface materials, exclusive of materials used for: windows; doors; roofing; fascia; soffit; balconies; railings; handrails; stairs; foundations; vents; and, support beams or columns less than eighteen (18) inches in width.

Building Permit: A permit issued by the City of South Bend in compliance with the terms and provisions of the City of South Bend Building Code. **Bus:** A motor vehicle designed for carrying more than ten (10) passengers, exclusive of the driver.

Business: An enterprise involving selling, storing or processing goods or commodities or the rendering of services.

Business Day - A day when the offices of the Area Plan Commission of St. Joseph County, Indiana, are open to the public for the transaction of business for the entire period of its normal operating hours.

Cabaret: A commercial establishment where persons congregate for the purpose of eating, drinking, dancing or singing and where live musical or live entertainment is provided.

Cabaret, 21 & Over (a.k.a. Class A Cabaret): Any *cabaret*, not including an *adult cabaret* or a *family cabaret*, or *family restaurant with lounge*, which has on the premises an area where: (i) alcoholic beverages are sold, bartered, exchanged, given away or furnished; and, (ii) from which minors are excluded pursuant to I.C. 7.1-5-7-9, 10 and 11.

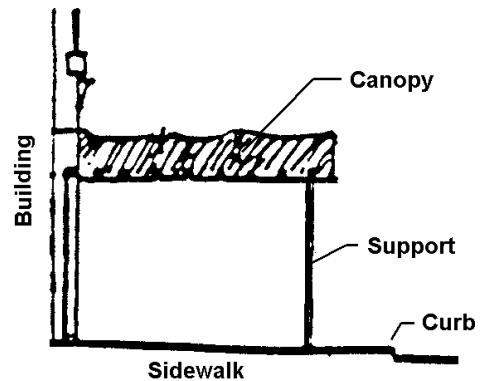
Cabaret, Adult (a.k.a. Class B Cabaret): See Section 8.02 (c) – Definitions for Adult Businesses.

Cabaret, Family (a.k.a. Class C Cabaret): Any *cabaret* in which minors are not excluded pursuant to I.C. 7.1-5-7-9, 10, and 11, and which is not a *21 & over cabaret*, an *adult cabaret* or a *family restaurant with lounge*.

Caliper: The diameter of a tree trunk, measured in inches, at six (6) inches above the ground.

Canopy: A roof-like cover, often of fabric, metal, plastic, fiberglass or glass on a support, which is supported in total or in part, from the ground and providing shelter over, for example, a doorway, outside walk, *interior access drive* or *parking area*.

Canopy, Vehicular: A roofed, open, drive through *structure* designed to provide temporary shelter for vehicles and vehicle occupants while receiving a business service.



Canopy

Care Giver: See Dwelling, Care Giver.

Care Receiver: See Dwelling, Care Receiver.

Carport: A roofed *structure* designed and intended to shelter the automotive vehicle of occupant or owner of the premises, with at least one (1) side open to the weather.

Casino: A *building*, facility or room where any gambling games, not operated by a licensed qualified organization, are conducted.

Certificate of Occupancy: A certificate issued by the Building Department authorizing an occupancy under the local building codes of the City of South Bend.

Child Care: A service that provides for the care, health, safety and supervision of a child's social, emotional and educational growth. (For reference, see Indiana Code 12-7-2).

Child Care Center: A *building* where at least seventeen (17) children receive *Child Care* from a provider:

- (a) while unattended by a parent, legal guardian, or custodian;
- (b) for regular compensation; and,
- (c) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

This term also applies to a *building* where *child care* is provided to less than seventeen (17) children if the provider has applied for a license under IC 12-17.2-4 and meets the requirements under IC 12-17.2-4. (For reference see Indiana Code 12-7-2.)

Child Care Home: A residential *structure* in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive *child care* from a provider:

- (a) while unattended by a parent, legal guardian, or custodian;
- (b) for regular compensation; and,
- (c) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

This term includes a Class I *Child Care Home* (that serves any combination of full-time and part-time children, not to exceed twelve (12) at any one (1) time) and a Class II *Child Care Home* (that serves more than twelve (12) children but no more than any combination of sixteen (16) full-time and part-time children at any one (1) time). (For reference see Indiana Code 12-7-2.)

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Child Care Ministry: A *child care center* operated by and in connection with a *religious use* that is recognized as a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code. (For reference see Indiana Code 12-7-2.)

Child Caring Institution:

- (a) A residential facility:
 - (1) that provides Child Care on a twenty-four (24) hour basis for more than ten (10) children; or
 - (2) with a capacity of not more than ten (10) children that does not meet the residential Structure requirements of a Group Home; or
- (b) An institution that:
 - (1) operates under a license issued under IC12-17.4;
 - (2) provides for delivery of mental health services that are appropriate to the needs of the individual; and,
 - (3) complies with the rules adopted under IC4-22-2 by the Division of Family and Children. For reference see Indiana Code 12-7-2.)

City Engineer: The City Engineer of the City of South Bend, Indiana.

Class A Cabaret: See *Cabaret – 21 and Over*.

Class B Cabaret: See *Cabaret – Adult*.

Class C Cabaret: See *Cabaret – Family*.

Club: An association or corporation:

- (a) Organized, in good faith, under authority of law;
- (b) Maintaining, in good faith, a membership roll of paid-up membership;
- (c) Owning, leasing or occupying an establishment operated solely for objects of a nation, social, patriotic, religious, political, or athletic nature, or the like;
- (d) Not operated for pecuniary gain;
- (e) With property and advantages of the organization belonging to its members;
- (f) Where the sale or provision of alcoholic beverages, if undertaken, is done pursuant to a Club Permit issued by the Indiana Alcoholic Beverage Commission.

Co-Location: The placement of two or more *antenna* or *antenna arrays* by *telecommunication service* providers on a common support *structure*.

Commitment: A legally binding, written restriction on the *use* and development of real estate entered into in connection with a petition for: zoning map change; development plan approval; special exception; or, variance.

Comprehensive Plan: The Comprehensive Plan for the City of South Bend or any supplemental or replacement comprehensive plan subsequently recommended by the *Area Plan Commission* and adopted by the City of South Bend Common Council pursuant to Indiana law.

Concept Plan: An informal site plan of a proposed *subdivision, project, planned unit development* or other development intended to convey the scope, content and nature of a proposed development, but lacking sufficient detail to determine compliance with Ordinance requirements.

Concept Plan Review: A cursory review of a *concept plan* or *sketch plan* for a proposed *subdivision, project, planned unit development* or other development in which *staff* provides initial review comments to a prospective petitioner on the design and layout of a proposed *subdivision, project, planned unit development* or other development.

Condominium: A *building, group of buildings, or portion thereof*, in which units are owned individually, and the *structure, common areas, or facilities* are owned by all the owners on a proportional, undivided basis.

Conforming: The state of being in compliance with the *permitted use or development standards* regulations of the *district* to which the real estate is zoned pursuant to this Ordinance.

Controlled Use: Any of the following *uses*:

- (a) Adult Business;
- (b) Amusement Arcade;
- (c) Any establishment for the sale of beer or intoxicating liquor for consumption on the premises (e.g., *bar, tavern, nightclub*), except a family restaurant.
- (d) Pawnshop;
- (e) *Pool hall* or *billiard hall*;
- (f) Public dance hall;
- (g) Off-track pari-mutuel wagering facility;

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- (h) *Casinos*, approved hotels and other areas where gambling games are conducted;
- (i) *Tattoo, body piercing and scarifying and branding establishments*; or,
- (j) *Gun shop* or *Gunsmith Shop*.

Cottage Business / Residential: A business operated out of the same *building* or tenant space as the primary *dwelling unit* of the proprietor when located in a *district* which permits such mixed-use occupancy.

Cottage School: A private school which: (a) provides educational services for a maximum of six (6) children at a time; (b) is operated in a residential property; and, (c) provides educational instruction for students between and including grades K – 12.

Country Club: Land area and *buildings* containing *golf courses*, recreational facilities, clubhouse, and customary *accessory uses*, open only to members and their guests.

Cutoff: A luminaire where light distribution does not exceed: (a) 2.5 percent above an angle of 90 degrees; and, (b) 10 percent at an angle between 80 degrees and 90 degrees.

Cutoff, Full: A luminaire equipped with a light fixture (i.e., lamp, lens, reflective surface, etc.) that does not protrude below the bottom edge of the light fixture and is designed so that: (a) no light is emitted above an angle of 90 degrees; and, (b) light distribution does not exceed 10 percent at an angle between 80 degrees and 90 degrees.

Cutoff, Non: A luminaire where light distribution is unrestricted.

Cutoff, Semi: A luminaire where light distribution does not exceed: (a) 5.0 percent above an angle of 90 degrees; and, (b) 20 percent at an angle between 80 degrees and 90 degrees.

Deck: A ground-supported, unenclosed, platform *accessory structure*, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised above *grade* level and is designed and intended for the recreational enjoyment of the occupant(s) and guest(s) of the *primary use* or *structure*.

Density, Gross: A unit of measurement which represents the number of units per acre of land on the aggregate total land to be developed, provided, however, the aggregate total land to be developed shall specifically exclude any portion of such land:

- (a) located in the *right-of-way* of a perimeter *street*;
- (b) located within a floodway; or,
- (c) required for storm water management.

Detailed Terms: The *uses* and *development standards* specified in a *PUD District Ordinance* with sufficient information from which to determine if an *improvement location permit* application is in compliance with the *use*, area and bulk regulations specified in the *PUD District Ordinance*. Specific information including, but not be limited to: *permitted uses*; *gross density*; *frontage*; *setbacks*; *minimum yards*; *use of yards*; *building height*; *parking area* requirements; *loading area* requirements; landscaping requirements; *signs*; *open space*; *building design* and appearance requirements; and the like, is provided.

Developed Recreational Open Space: The total horizontal area of those portions of a *lot* which are located outside of any required *yard* and which are set aside and developed for the recreational use and enjoyment of all residents of a *project*.

Development Incentive: The manner and extent to which *development requirements* or *development standards* established by this Ordinance may be modified or *waived* in connection with the approval of a *development plan*.

Development Petition: Any petition or review process required by this Ordinance prior to the issuance of a *improvement location permit*, including but not limited to petitions for: zone map changes; *variances*; *special exception uses*; *primary plats*; *secondary plats*; re-plats; vacations; or, *development plans*.

Development Plan: Specific plans development of property filed in connection with *development incentives* review under the terms of this Ordinance. A *development plan* may include, but not be limited to: a site plan; landscape plan; *signs*; lighting plans; *building elevations*; and pedestrian and vehicular circulation plans, which are reasonably necessary to depict or describe certain information and data as required by this Ordinance.

Development Requirements: *Permitted uses*, *development standards* and any additional requirement specified in this Ordinance which must be satisfied in connection with the approval of a *development plan*.

Development Standards: Area, bulk, height, *setback*, parking, loading, landscaping, lighting, performance standards, building materials, pedestrian and vehicular circulation, and other applicable regulations of a *district* contained in the Ordinance which govern the physical development of real estate.

Director: See *Executive Director*.

District: Any *zoning district* or *overlay district* applicable to a section of the territory within the jurisdiction of this Ordinance.

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District, Zoning: A section of the territory within the jurisdiction of this Ordinance for which uniform regulations over the erection, construction, reconstruction, alteration, repair or *use of buildings, structures* or land, including, but not limited to: *permitted uses*; height; area; size; and, intensity of *use of buildings, structures, land, and open spaces* about *buildings* or *structures*, are established by this Ordinance.

District, Overlay: A section of the territory within the jurisdiction of this Ordinance in which additional requirements are imposed on certain properties within one or more underlying *zoning district*.

Drainage Pond: An artificially created body of water which is required in connection with a storm water management system.

Drive, Interior Access: A way for internal vehicular movement in and around an individual *lot* or *integrated center*.

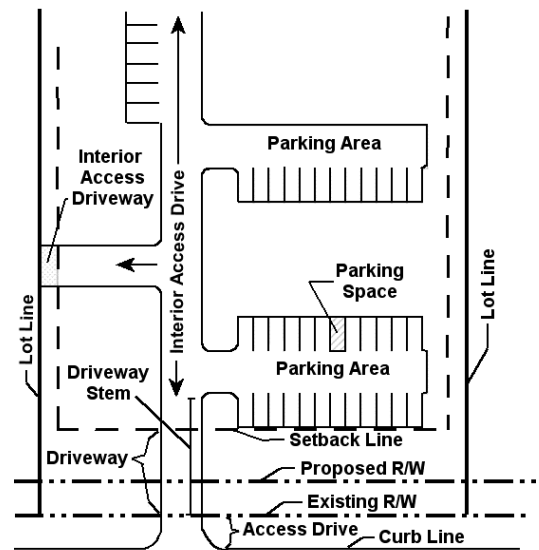
Drive-Through Facility: A feature of an establishment which typically includes an opening in the exterior of the building, or the use of pneumatic dispatch or similar devices, which encourage or permit customers to receive goods or services while remaining in or on a motor vehicle.

Driveway: *Access* for vehicular egress/ingress between the *right-of-way* of a *public street* or *private street* and the minimum required *setback line* on a *lot*.

Driveway, Interior Access: A way for vehicular egress/ingress between the minimum required *setback lines* of separate *lots* or between *lots* within the boundaries of an *integrated center*.

Dwelling: Any *building*, or portion of a *building*, which is designed or used primarily for residential purposes, including a *single family dwelling*, *two family dwelling* and *multifamily dwelling* but not including *hotels, motels, boarding houses, lodging houses*, and, *bed & breakfast*.

Dwelling, Accessory: A *dwelling unit* which is subordinate and incidental to the *primary use* of a *lot* for a *single family dwelling*.



Drives & Related Areas

Dwelling, Care Giver: A second *dwelling unit* located on a *lot* in a Residential *District* which permits only one (1) *single family dwelling* as a matter of right and which is:

- (1) occupied by a *family* who provides weekly assistance to the *family* residing in the permitted *single family dwelling*; and,
- (2) approved by the *Board of Zoning Appeals* through the grant of a *special exception*.

Dwelling, Care Receiver: A second *dwelling unit* located on a *lot* in a Residential *District* which permits only one (1) *single family dwelling* as a matter of right and which is:

- (1) occupied by a *family* who receives weekly assistance from the *family* residing in the permitted *single family dwelling*; and,
- (2) approved by the *Board of Zoning Appeals* through the grant of a *special exception*.

Dwelling, Manufactured Home: A *dwelling unit* which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process.

Dwelling, Mobile: A movable or portable *dwelling unit* that:

- (a) is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process;
- (b) is designed for occupancy by one *family*;
- (c) is erected or located as specified by the City of South Bend Building Code; and,
- (d) was either:
 - (1) constructed prior to June 15, 1976; or,
 - (2) constructed subsequent to or on June 15, 1976 and bears a seal, certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.

Dwelling, Modular Home: A *dwelling unit* which is fabricated in one or more modules at a location other than the home site by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process, provided that the *dwelling unit* must have been built in compliance with the Indiana One and Two-Family Dwelling Code and the City of South Bend Building Code.

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Dwelling, Multifamily: A *building* consisting of three (3) or more *dwelling units*, including *condominiums*, with varying arrangements of entrances and party walls.

Dwelling, Single Family: An individual, detached *building* containing one (1) *dwelling unit* which is either:

- (a) built in compliance with the Indiana One and Two-Family Dwelling Code and the City of South Bend Building Code;
- (b) a *modular dwelling*; or,
- (c) a *manufactured home dwelling*.

Dwelling, Two Family: A *building* consisting of two (2) *dwelling units* which may be either attached side by side or one above the other, and each *dwelling unit* having a separate or combined entrance.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) *family* and its household employees, including provisions for sleeping, *lawful cooking*, and sanitary facilities. The term shall include *mobile dwellings*, *modular dwellings* and *manufactured dwellings* but shall not include *recreational vehicles*.

EIA-222: Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures".

Escort: A person who, for consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency: A person or business who furnishes, offers to furnish, or advertises to furnish escorts as a primary business purpose for a fee, tip or other compensation.

Executive Director: The Executive Director of the Area Plan Commission of St. Joseph County, Indiana, or the designee of the Executive Director of the Area Plan Commission of St. Joseph County, Indiana.

Electronic Variable Message Sign (EVMS): See *Sign, Electronic Variable Message*.

Façade: That portion of any exterior elevation of a *building*, extended from *grade* to the top of the parapet wall or eaves, and extending the entire width of the *building* elevation.

Façade, Front: The *façade* of a *building* which is oriented toward a *front lot line* of the *lot* on which the *building* is located.

Façade, Rear: The *façade* of a *building* oriented toward a *rear lot line* of a *lot* on which the *building* is located.

Façade, Side: The *façade* of a *building* oriented toward a *side lot line* of a *lot* on which the *building* is located.

Family: One (1) or more persons related by blood, legal adoption or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants; or, a number of persons, but not exceeding two (2) persons who are not related by blood, legal adoption or marriage, living and cooking together as a single housekeeping unit, shall be deemed to constitute a family. A person or persons residing with a family as hereinabove defined by reasons of placement by a publicly licensed placement agency shall be considered as members of that family.

Family Restaurant: See Restaurant, Family.

Family Restaurant with Lounge: See Restaurant, Family, with Lounge.

Flag: See *Sign, Flag*.

Floor Area: For *single family dwellings* and *two family dwellings*, the sum of all horizontal surface areas of all floors of all roofed portions of a *building* enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such *buildings* or portions thereof. The *floor area* of such a *building* shall exclude all areas with a vertical height clearance less than seventy-eight (78) inches, exterior open balconies, and open *porches*.

For *multifamily dwellings*, the sum of all horizontal surface areas of all floors of all roofed portions of all *buildings* enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such *buildings* or portions thereof. However, the *floor area* of such a *building* shall not include the following:

- (a) all areas with a vertical height clearance less than seventy-eight (78) inches;
- (b) all exterior open balconies, and open *porches*;
- (c) *floor area* or *basement floor area* devoted to *off-street parking* or *off-street loading*, including aisles, ramps and maneuvering space;
- (d) *floor area* or *basement floor area* provided for recreational uses, available to occupants of two or more *dwelling units* within a *project*; or,
- (e) *basement floor area* provided for storage facilities, allocated to serve individual *dwelling units* with a *project*.

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Floor Area, Finished: That portion of *floor area* constructed, completed and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, sanitary, or combination thereof. A *floor area* or portion thereof used only for storage purposes and not equipped with the facilities mentioned above shall not be considered *finished floor area*.

Floor Area, Gross: For *dwelling units*, the total area, computed on a horizontal plane inclusive of finished *basements*, attached *garages*, entrances, hallways, stairways and other enclosed areas, but exclusive of unfinished *basements*, cellars and attics.

For commercial or industrial *buildings* or *structures*, the sum of all horizontal surface areas of all floors of a *building* or *structure* measured from the exterior faces of the exterior walls or from the center line of walls separating abutting *buildings* or *structures*.

Floor Area, Gross Leasable: That portion of the *gross floor area* which is designated for the exclusive use and occupancy of a tenant.

Floor Area, Main: That portion of the *finished floor area* located on the first floor of the *dwelling unit*.

Foundation Landscaping: Landscaping installed along or in relation to the perimeter foundation of a *building* or *structure*.

Foundation Landscaping Area: The area along or in proximity to the perimeter foundation of a *building* or *structure* which is required to be set aside for the installation of *foundation landscaping*.

Fraternity House: A building containing sleeping rooms, bathrooms, common rooms and a central kitchen and dining room maintained exclusively for fraternity members and their guests or visitors and affiliated with an institution of higher learning.

Front Façade: See *Façade, Front*.

Frontage: The line of contact of an abutting property with the *street right-of-way* along a *front lot line* which allows unobstructed, direct *access* to the *lot*.

Frontage Street or Frontage Road: See *Street, Frontage*.

Full Cutoff: See *Cutoff, Full*.

Gambling Game: Any of the activities governed by the Indiana Gaming Commission as a wagering device set forth in *Indiana Code* § 4-33-2-9, as it may be amended from time to time.

Game Court: In residential *districts*, a type of recreation facility which consists of an unpaved or paved, *accessory*, surface area of ground open and essentially unobstructed to the sky, on the same *lot* as the *primary building*, designed and intended for the playing of a recognized sport as an *accessory*, recreational activity by the occupants and guests of the *primary building*, which may include fencing, screening, nets, goals, or other necessary appurtenances required for recreational use.

Garage: An *accessory building* to a residential *use*, or an enclosed area attached to or integrated into a residential *building*, which is primarily designed and intended to be used for the *storage* of the private vehicle(s) for the occupant(s) of said residence and is not a separate commercial enterprise available to the general public.

Garage, Parking: Any *building* or *structure* designed and intended for the storage of motor vehicles for compensation.

Garage Sale: A public or private sale conducted by the owner or occupier of a premises of six or more items of personal property owned by the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

Gasoline Service Station: Any *building*, land area or other premises or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels, which may include as an *accessory use*: minor automotive repairs; the sale and installation of lubricants, tires, or batteries; car washes; and, similar uses. Such establishments shall provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by means of fixed, approved dispensing equipment by customers or employees.

General Terms: The *uses* and *development standards* expressed in a *PUD District Ordinance* (such as designations of areas in terms of: units per acre; *multifamily*; retail; office; and the like) which do not provide sufficient information from which to be able to determine if an *improvement location permit* application for a particular development is in compliance with the *use*, area and bulk regulations for the *PUD District Ordinance*. Detailed information regarding: *permitted uses*; *gross density*; *frontage*; *setbacks*; *minimum yards*; *use of yards*; *building height*; *parking* requirements; *loading* requirements; *landscaping* requirements; *sign* information; *open space*; *building* design and appearance requirements; and the like, are not specified.

Glare: The harsh appearance of a direct source of light as discernible from adjacent properties and which causes annoyance, discomfort or loss of visual performance and visibility.

Golf Course: A tract of land laid out for at least nine (9) holes for playing the game of golf and improved with tees, greens, fairways and hazards, and may include a clubhouse and shelter. See also: *Country Club*.

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Grade: The average level of the finished surface of the ground five (5) feet from the *building, structure* or proposed *building pad*; provided, however, when referring to "*street grade*" the term "grade" shall mean the slope of a *street* specified in percentage (%) terms.

Greenbelt: An *open space* along the perimeter of a development, *subdivision* or *project* which is maintained in its natural vegetative state and which, at a minimum, contains sufficient vegetation to meet or exceed perimeter landscape yard requirements.

Greenway: A *greenway* may include any of the following: (i) a linear *open space* established along either a natural corridor (i.e., a riverfront, stream valley or ridge line) or over land (i.e., along a railroad right-of-way, a canal, a scenic road or other route) converted to or available for recreational use; (ii) any natural or landscaped course for pedestrian or bicycle passage; or, (iii) an *open space* connector linking parks, natural features, cultural features, or historic sites with each other or with residential, employment or shopping areas, which are designated on an officially adopted plan of the City of South Bend or St. Joseph County.

Group Home: A residential facility licensed by the Community Residential Facilities Council, or its successor in authority, and authorized by I.C. 12-17.4-5 in which care is provided on a twenty-four (24) hour basis for not more than ten (10) children in need of services or who have committed a delinquent act.

Group Residences: A residential facility which, in addition to providing food and shelter, may also provide some combination of personal care, social services, counseling services or transportation to residents. Group residences would include halfway houses, work release houses or any other similar form of residential facility for individuals which do not qualify as a family or any other form of residential facility expressly provided for in this Ordinance.

Gun and Gunsmith Shops: Any location where firearms or ammunition are being sold or repaired as the primary business items.

Half Story: See *Story, Half*.

Hedge Plant: A woody plant of relatively low height (not exceeding ten to twelve (10-12) feet in height), branching from the base.

Historic Landmark: A building, structure, object, district, land use, area or site of historical significance and designated as an historic landmark on the Historic Preservation Plan.

Historic Preservation: The research protection, maintenance, restoration, rehabilitation, reconstruction or development of historic landmarks and Historic Preservation Districts. For the purposes of this Chapter, this definition shall apply to the preservation of exterior features only.

Historic Preservation Commission: The Historic Preservation Commission established under the provisions of this Chapter.

Historic Preservation District: A geographically definable area with a significant consideration of buildings, structures, sites, spaces, or objects unified by past events, physical development, design, setting, materials, workmanship, a sense of cohesiveness, or related historic association and designated as an historic preservation district on the Historic Preservation Plan.

Home Occupation: An occupation or business activity carried on within a legally established *dwelling unit* by a resident of said *dwelling*.

Hotel: Any *building* or group of *buildings* containing five (5) or more rooms without direct entrance to or from the outside, designed or intended to be occupied for sleeping purposes by guests for a fee, often with general kitchen and dining room facilities provided within the *building* or an *accessory building*, and which caters to the traveling public.

Hotel, Approved: A *hotel* where gambling may be conducted, and contains: at least two-hundred and fifty (250) rooms, or a lesser number established by the Indiana Gaming Commission; an indoor public space used for exhibit space; meeting rooms; banquet rooms; restaurants; lobbies; lounges or *bars*; show theaters; parking areas; and shops. This definition shall also include the definition of "approved hotel" contained in IC 4-33-2-3, as such definition may be amended from time to time.

Improvement: Any man-made, immovable item which becomes part of, placed upon, or is affixed to real estate.

Improvement Location Permit: A permit stating that the proposed erection, construction, enlargement or moving of a *building* or *structure*, and *uses* thereof, complies with the provisions of this Ordinance, or a *building permit* which includes a site plan review or which authorizes the proposed erection, construction, enlargement or movement of any *sign*.

Incidental: A minor occurrence or condition which is customarily associated with a *permitted use* and is likely to ensue from normal operations.

Interior Yard: See *Yard, Interior*.

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Integrated Center: An area of development (commercial / mixed *use*, industrial, or any combination of commercial / mixed *use*, industrial and residential *uses*) of one or more *lots* or *out lots*, comprised of:

- (a) two or more individual, non-related and separately operated *uses* in one *building* sharing common site facilities;
- (b) one or more *buildings* containing non-related and separately operated *uses* occupying a common site, which utilizes one or a combination of common site facilities, such as *driveways*, *parking areas*, *loading areas*, *interior access drives*, maintenance and similar common services; or,
- (c) one or more *buildings* containing non-related and separately operated *uses* occupying individual sites, which are interrelated by the utilization of one or a combination of common facilities, such as *driveways*, internal *public street* or *private street* network developed in accordance with an approved *master plan* or *preliminary plan* of a *subdivision*, *parking areas*, *loading areas*, maintenance or other services.

Industrial Park: An *integrated center* zoned for and primarily used by industrial businesses. See *Integrated Center*.

Junk Yard: Any place at which personal property:

- (a) is or may be salvaged for reuse, resale, or reduction or similar disposition;
- (b) is owned, possessed, collected, accumulated, dismantled, or assorted (including but not limited to: used or salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and, used motor vehicles, machinery or equipment which does not carry a current, valid license); or,
- (c) is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

Lawful Cooking - A room or area in which food may be prepared and cooked and which contains the following:

- (a) A kitchen sink in good working condition and properly connected to an approved water supply and approved sewer/septic system. The sink must provide an adequate amount of water under pressure, both unheated and heated to no more than 120 degrees Fahrenheit;

- (b) Cabinets, shelves, counters or tables used for storage of food, eating, drinking or cooking equipment and utensils shall be of sound condition furnished with surfaces that are easily cleanable and that will not impart any harmful effect to food; and,
- (c) A stove, oven or microwave oven for cooking food and a refrigerator for safe storage of food at temperatures less than 45 degrees Fahrenheit. These appliances shall be properly installed with all necessary connections for safe, sanitary and efficient operation and shall be maintained in good working condition.

Legally Established: The condition of being in compliance with all applicable development regulations at the time of recording, construction or erection of a *lot, building, structure, use or sign*.

Legally Established Nonconforming: See *Nonconforming Building or Structure, Legally Established* or *Nonconforming Uses, Legally Established*.

Limited Access Highway: See *Street, Limited Access Highway*.

Liquor Store: A retail establishment whose primary business, in terms of *gross floor area* or sales, is related to the sale of alcoholic beverages. A grocery store or drug store which sells alcoholic beverages, but whose sales of such beverages is incidental to the overall *gross floor area* or sales receipts of the business, shall not be considered a *liquor store*.

Loading Area: Any area maintained and intended for the maneuvering and temporary parking of vehicles while transferring goods or materials to and from a facility. *Loading area* includes the *loading space* and maneuvering area required to enter the *loading space*.

Loading, Off-Street: A *loading area* located completely on a *lot* and *accessed* via *interior access drives, interior access driveways, access drives, or driveways* in which no individual *loading spaces* gain *direct access* to a *public street* or *private street*.

Loading Space: A hard-surfaced, *off-street* area used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

Lot: A piece, parcel, plot or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and may consist of:

- (a) a single *lot of record*; or,
- (b) a combination of complete *lots of record*.

For purpose of this definition, the ownership of a *lot* is further defined to include:

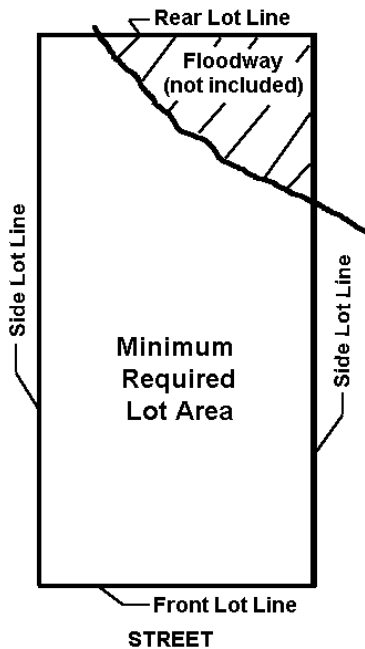
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- (a) the person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor; or,
- (b) a long-term lessee (but only if the lease is recorded among the records of the St. Joseph County Recorder and has a term (exclusive of non-exercised extensions and renewals) of at least twenty-five (25) years remaining before its expiration at the time of applying for a permit).

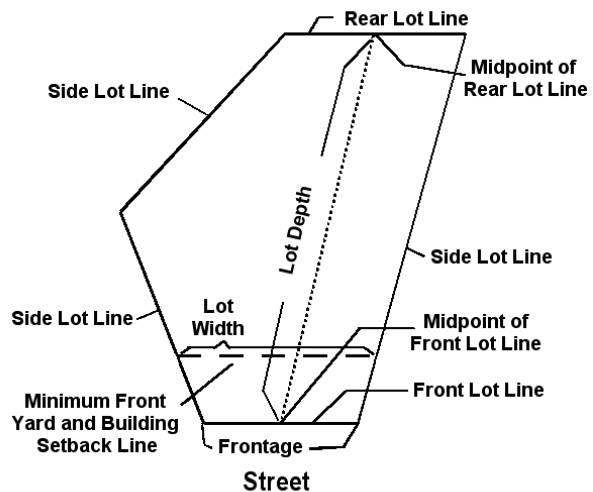
Provided, however, for the purposes of the Subdivision Control Ordinance, the term *Lot* shall mean that portion of a *Subdivision* which is proposed to be recorded in the office of the St. Joseph County Recorder as a *Lot of Record*.

Lot Area: The total area of a *lot* bounded on all sides by any *front lot line*, *rear lot line*, and *side lot line*, provided, however, *lot area* shall not include: any area lying within the *right-of-way* of any *public street* or *private street* or easement for surface *access* into the subject *lot* or adjoining *lots*; or, land reserved for drainage pond, wetland or lands subject to periodic flooding. No part of the minimum *lot area* required under the applicable *district*, *commitment*, *variance grant* or *development plan* approval may be satisfied by land that is under water.

Lot, Corner: A *lot* abutting two (2) or more *streets* at their intersections, or upon two parts of the same *street* forming an interior angle of less than one-hundred and thirty-five (135) degrees.



Lot Area



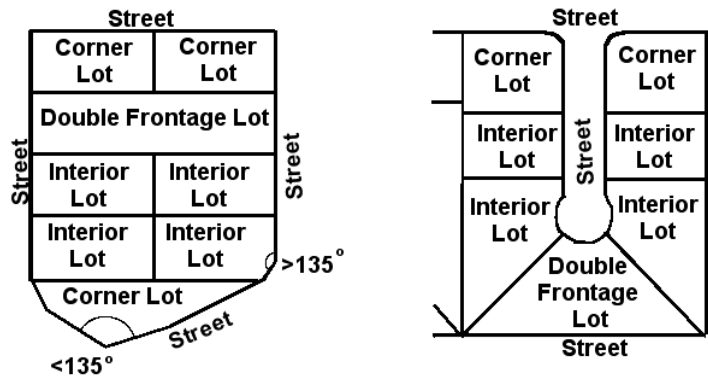
Lot Depth & Lot Width

Lot Coverage: The total ground area within the *lot* or project covered by the primary *structure* plus any *accessory structures* (including *decks* over 30" above *grade*, above-ground pools, in-ground pools, *garages*, *carports*, storage sheds, or any under roof areas), excluding *driveways*, *walkways*, fences, grade level *decks* and *patios*, and walls not attached in any way to a roof.

Lot Depth: The distance from the midpoint of the *front lot line* to the midpoint of the *rear lot line*.

Lot, Double Frontage: A *lot* abutting two (2) parallel *streets*, or abutting two (2) *streets* which do not intersect at the boundaries of the *lot*.

Lot, Interior: A *lot* which is not a *corner lot* or a *double frontage lot*.



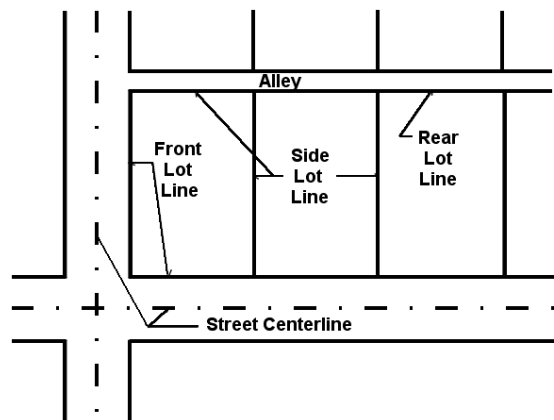
Types of Lots

Lot Line: The line of separation of a *lot* from any abutting *street* or adjoining *lot*.

Lot Line, Front: The *lot line* separating a *lot* from any abutting *street* or *limited access highway*.

Lot Line, Rear: A *lot line* which is opposite and most distant from the *front lot line*, or in the case of a triangularly shaped *lot*, a line ten (10) feet in length within the *lot*, parallel to and at the maximum distance from the *front lot line*. However, in the case of a *corner lot*, any *lot line* which intersects with a *front lot line* shall not be considered a *rear lot line*.

Lot Line, Side: Any *lot line* not designated as a *front lot line* or *rear lot line*.



Lot Lines

Lot of Record: A *lot* which is part of a *final plat* recorded in the Office of the Recorder of St. Joseph County, Indiana, or for which a deed has been so recorded.

Lot Width: The full width of a *lot* measured along the minimum *front yard* and minimum *building setback line* required by this Ordinance.

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Luminaire: A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute light on any property, to position and protect the lamps and to connect the lamps to the power supply.

Luminous Tube Lighting: Gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g. neon, argon, etc.

Manufacture: The mechanical or chemical transformation of materials or substances into new products or into a useable form. *Manufacture* may include the creation of products (including subsequent assembly of previously manufactured parts), or the blending of materials such as lubricating oils, plastics, resins or liquors.

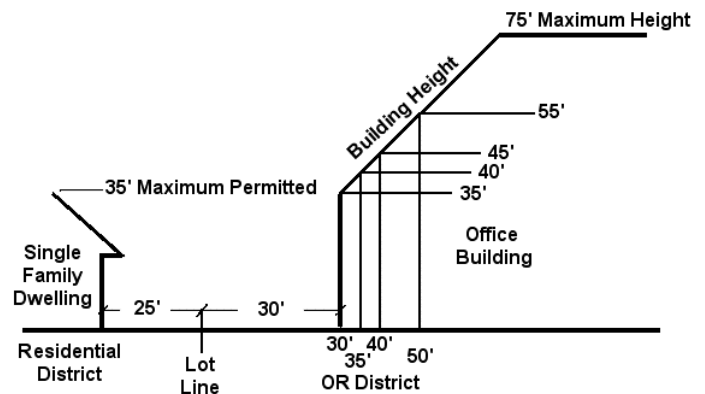
Manufactured Home Dwelling: See *Dwelling, Manufactured Home*.

Manufacturing Retailer: A food sales and service establishment which where food or beverage products are produced in a limited quantity (not industrial manufacturing) sufficient to support on-site sales as a primary or accessory portion of the on-site business. Examples include confectioners, bakeries and brew pubs.

Massage: The manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping by hand or mechanical device.

Massage Business: Any establishment or business wherein massage is practiced, including message therapy by a licensed health professional and establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Any *massage business* which involves any *specified anatomical areas* or any *specified sexual activities* shall be deemed an *adult business*.

Master Plan: A drawing, map, plan or other graphic representation of an overall *project*, drawn to an appropriate scale by hand or other drawing method, but containing sufficient detail to depict the patterns proposed for an overall *project* and to determine general compliance with the *use and development standards* provisions of this Ordinance.



Maximum Building Height Calculation

Maximum Building Height: The height which a *building* or *structure* may not exceed. See also *Building Height*.

Mini (Self Storage) Warehouse: A *building* or *structure* designed and used for the purpose of renting or leasing individual storage spaces to occupants who are to have access to such for the purpose of storing and removing personal property. (Ord. No. 9783-07)

Minor: A person less than twenty-one (21) years of age.

Mobile Dwelling: See *Dwelling, Mobile*.

Motel: Any *building* or group of *buildings* containing five (5) or more rooms with at least twenty-five percent (25%) of all rooms having direct entrance to and from the outside without the necessity of passing through the main lobby of the *building(s)*, designed and intended to be occupied for sleeping purposes by guests for a fee, where general kitchen and dining room facilities may be provided within the *building* or an *accessory building*, and which caters to the traveling public.

Neighborhood Development Committee: An advisory committee to the Historic Preservation Commission established under the provisions of this Chapter.

Neighborhood Partnership Center: A facility which, under contract with the City of South Bend and neighborhood in which it is located, operates to encourage neighborhood communication, outreach and neighborhood based service provision in connection with a small area physical revitalization component. Typically, a *Neighborhood Partnership Center* is located in a *single family dwelling* or *two family dwelling* which has been renovated and, once the *Neighborhood Partnership Center* has completed its purpose, sells the house for *use* as a *single family dwelling* or *two family dwelling*.

Neighborhood Recycling Collection Point: A site where individuals bring household recyclable materials to either drop off without compensation, or, to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the materials takes place at the site. All materials are stored completely within the *structure* while awaiting periodic shipment to the processing facilities. While these collection points may be developed as freestanding sites, they typically are *accessory uses* sharing the site of a larger *primary use*. Possible *structures* for this type of operation include such *recycling containers* as "igloos", reverse vending machines, trailers, or similar *structures*.

Nightclub: An establishment: offering liquor by the drink or food for on-site consumption; and, in which music, dancing or entertainment is conducted.

Non Cutoff: See *Cutoff, Non*.

Non-Whip Antenna: See *Antenna, Non-Whip*.

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Nonconforming: The state of not being in compliance with the *permitted use* or *development standards* regulations of the *district* to which the real estate is zoned pursuant to this Ordinance.

Nonconforming Building or Structure: Any *building* or *structure* erected or constructed but which fails to conform to the present requirements of the *district*.

Nonconforming Building or Structure, Legally Established: Any continuous, lawfully established *building* or *structure* erected or constructed: (a) prior to the time of adoption, revision or amendment of this Ordinance but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the *district*; (b) pursuant to a granted *variance*; or, (c) prior to a *right-of-way* acquisition or access rights acquisition by a governmental entity but which fails by reason of such *right-of-way* acquisition or access rights acquisition by a governmental entity to conform to the present requirements of the *district*.

Nonconforming Use: Any land *use* which fails to conform to the present requirements of the *district*.

Nonconforming Use, Legally Established: Any continuous, lawful land *use* having commenced: (a) prior to the time of adoption, revision or amendment of this Ordinance but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the *district*; or (b) pursuant to a granted *variance*.

Occupancy: The use to which a building or premises is devoted.

Off-Street: An area, typically set aside for parking or loading, which is located on private property and does not occur in the *right-of-way* of any *public street* or *private street*.

On-Street: An area, typically set aside for parking or loading, which is located within the *right-of-way* of any *public street* or *private street*.

Open Space: A *lot*, a portion of a *lot* or common area set aside as a *playground*, *plaza*, *park*, *parkway*, *greenbelt*, *residential bufferyard* or other landscape area and maintained free from *buildings* or *structures*, except for those *structures* which are directly related to and essential to the *use* of the *open space* for recreational purposes, including, but not limited to swimming pools, play equipment for youngsters, game courts and picnic tables. In the case of individual residential *lots*, *open space* shall be an area landscaped with grass, trees, shrubbery or other suitable vegetative ground cover and maintained free from *buildings* or *structures*.

Out Lot: That portion of land in a *integrated center*, *industrial park* or other planned development which does not contain the central or *primary building* of the development and is: (a) usually located adjacent to a *street* or *frontage street*; and, (b) is intended for

the development of a smaller, additional and separate *building* or *buildings*. In an *integrated center* or *industrial park* where there is no clearly identifiable central or *primary building* of the development, or where individual *lots* are developed independently of each other, each *lot* shall be considered an *out lot*. Provided, however, for the purposes of the *Subdivision Control Ordinance*, the term *out lot* shall mean a non-buildable portion of a *Subdivision*.

Outdoor Display Area: That part of *lot* used for the display of merchandise or goods available for purchase or lease from the business located on that *lot*.

Outdoor Light Fixture: Any outdoor electrically powered illuminating devices, outdoor light or reflective or refractive surfaces, lamps and similar devices including all parts used to distribute the light or protect the lamp, permanently installed or portable, used for flood lighting, general illumination or location identification.

Outdoor Storage: See *Storage, Outdoor*.

Park: An *open space* designed and used by the public for passive or active recreational *use*.

Park, Active: An *open space* improved with active recreational facilities, including but not limited to: tennis or basketball courts; softball, baseball, football or soccer fields; slides; playgrounds, etc., and maintained for the continued use and enjoyment of area residents.

Park, Passive: An *open space* improved with passive features, including but not limited to park benches, picnic tables, gazebos, etc. and maintained for the continued use and enjoyment of area residents.

Parkway: An *open space* entirely bounded by *street* or pedestrian *rights-of-way* within a developed area.

Parking Area: Any area other than an open exhibition or display area (not inclusive of *interior access drives, driveways, interior access driveways* and *access drives*) intended for the temporary storage of automotive vehicles including *parking spaces* and the area allocated to the egress/ingress of automotive vehicles to and from the actual *parking space*.

Parking Garage: See *Garage, Parking*.

Parking, Off-Street: A *parking area* located completely on a *lot* and accessed via *interior access drives, interior access driveways, access drives, or driveways* in which no individual *parking spaces* gain direct access to a *public street* or *private street*.

Parking, On-Street: A *parking area* located partially or completely within the *right-of-way* of a *public street* or *private street*.

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Parking Lot: The *primary use* or *accessory use* of a *lot* or a portion of a *lot* for the parking of automotive vehicles.

Parking Lot, Accessory: The *use* of a *lot* in a Residential *District* as a *parking lot* where such *parking lot* is *accessory* to a *permitted use* which is either: (i) located on an adjacent *lot* in a Commercial / Mixed Use *District* or Industrial *District*; or, (ii) located in a Commercial / Mixed Use *District* or Industrial *District* separated from the *lot* in a Residential *District* by a *street* or *alley* not over thirty (30) feet in width. Such *Accessory Parking Lots* are intended to create an effective buffer between residential *uses* and a commercial / mixed *use* or industrial *use* and, where practical, are developed in compliance with all *off-street parking* standards and all landscaping standards applicable *parking lots* in a commercial / mixed use *district* or industrial *district*.

Parking Space: That portion of the *parking area* used only for the temporary placement of an operable motor vehicle.

Patio: A hardsurfaced area *accessory structure* to a *primary use* or *structure* of which the horizontal area is at *grade* level with at least one (1) side open to the weather and essentially unobstructed to the sky. This area is specifically designed and intended for the recreational enjoyment of the occupant(s) and guest(s) of the *primary use* or *structure* and is not designed or intended for *use* by automotive vehicles.

Pennant: See *Sign, Pennant*.

Performance Bond - A legally binding agreement whereby the *subdivider* posts a surety for the construction of *improvements*, installations and *lot improvements* required by this Ordinance, any other applicable ordinances of the City of South Bend, and any requirements, covenants, conditions or *commitments* which may be imposed pursuant to this Ordinance.

Permitted Use: The *use* of land or the *use* of a *building* or *structure* on land which is allowed, either as a matter of right or under limited conditions (i.e., as a *special exception use*, an *accessory use*, a *home occupation*, or a *temporary use*) in the *district* applicable to the land.

Phased Development Plan: See *Development Plan, Phased*.

Plan Commission: A commission established pursuant to Indiana Code 36-7-4 et seq., and which is responsible for: making recommendations regarding adoption and amendments to the *comprehensive plan*; making recommendations regarding adoption or text amendments of the initial zoning ordinance, replacement zoning ordinance and subdivision control ordinance; making recommendations regarding adoption or amendment of a *PUD District Ordinance*; making recommendations regarding zone map changes; rendering decisions concerning plats, re-plats and amendments to plats;

making determinations regarding *development plans*; and, other duties or powers authorized by Indiana Code 36-7-4 et seq., and ordinance. See also *Area Plan Commission*.

Plan Review Committee (PRC): A committee of technical consultants established to provide the *Executive Director, Building Commissioner or Zoning Administrator* with technical assistance in the review of plans for compliance the provisions of this Ordinance and other applicable rules and regulations of federal, state or local agencies.

Planned Unit Development: A site to be developed, operated and maintained as a single entity and containing one or more residential areas, public areas, quasi-public areas, commercial areas or industrial areas, and containing a range of uses as specified in the *PUD District Ordinance*.

Playground: An *open space* which contains an active recreational area with a variety of facilities, including equipment for younger children, *game courts* and fields for games.

Plaza: An *open space* that may be improved and landscaped, usually surrounded by *streets* or *buildings*.

Pool Hall or Billiard Hall: Any establishment which keeps, maintains or operates for hire on the premises four (4) or more pool or billiard tables.

Porch: A roofed *accessory structure* with at least one side exposed to the weather, supported from the ground and attached to or part of a *building* at the area of entrance or exit to said *building*.

Preliminary Plan: A drawing, map, plan or other graphic representation of a *planned unit development*, drawn to an appropriate scale by hand or other drawing method, but containing sufficient detail to depict the general land *use* patterns, major *street* network and generalized infrastructure proposals proposed for the *planned unit development*. A *Preliminary Plan* may be supplemented with text to provide sufficient details to determine applicable *permitted use* and *development standards* provisions for the *planned unit development*.

Primary Building: The *building* in which the primary *permitted use* of the *lot* is conducted.

Primary Use: A *permitted use* of land or a *permitted use* of a *building* or *structure* on land which is allowed as a matter of right in the *district* applicable to the land, subject only to compliance with the *development standards* applicable to that *district*.

Project: A *single use site, integrated center, mixed use development, single family dwelling subdivision, two family dwelling subdivision, multifamily development* or any other form of development of real estate.

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Project Area: The total land area of a site, less area included in: the *existing right-of-way* or *proposed right-of-way* of a perimeter *street*; and, the area included in floodway or other undevelopable portions of the site.

Proposed Site Plan: A plan drawn to scale, showing uses and structures proposed for a parcel of land, as required by this Chapter.

PUD: See *Planned Unit Development*.

PUD District Ordinance: A petition for zone map change which designates a parcel of real property as a *planned unit development*, specifies uses or a range of uses permitted in the *planned unit development*, specifies development requirements in the *planned unit development*, specifies plan documentation and supporting information that may be required prior to development in a *planned unit development*, and specifies any limitations applicable to the *planned unit development*.

Rear Façade: See *Façade, Rear*.

Recreational Vehicle: A vehicular-type portable *structure* without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use, including, but not limited to: travel trailers, truck campers, camping trailers, self-propelled motor homes; personal watercrafts; and, boats.

Recycling Container: A receptacle designed and intended for the collection of cleaned, sorted, solid household waste products, including, but not limited to glass, plastic, metal and paper.

Recycling Facility: A recycling operation involving further processing (relative to a *Neighborhood Recycling Collection Point*) of materials to improve the efficiency of subsequent hauling. Such a facility typically features sorting, the use of a crushing apparatus, and the storage of the material until it is shipped out.

Religious Use: A land *use* and all *buildings* and *structures* associated therewith devoted primarily to the purpose of divine worship together with reasonably related *accessory uses*, which are subordinate to and commonly associated with the *primary use*, which may include but are not limited to educational, instructional, social, residential or *child care ministry uses*.

Residential Bufferyard: A *front yard*, *side yard* or *rear yard* of a non-residential land *use* on a *lot* which faces or abuts a residential *district* or residential land *use* designation within a *planned unit development*. A *residential bufferyard* may include landscape plantings, fences, walls or berms required to provide screening or buffering for adjacent residential

properties. A *residential bufferyard* shall not apply to any *front yard* abutting a *limited access highway*.

Residential Bufferyard, Front: The *front yard* of a non-residential land *use* on a *lot* which faces or abuts a residential *district*. See also *Residential Bufferyard*.

Residential Bufferyard, Rear: The *rear yard* of a non-residential land *use* on a *lot* which faces or abuts a residential *district*. See also *Residential Bufferyard*.

Residential Bufferyard, Side: The *side yard* of a non-residential land *use* on a *lot* which faces or abuts a residential *district*. See also *Residential Bufferyard*.

Resource Recovery: The processing of solid waste into commercially valuable materials or energy.

Restaurant, Drive In: Any *family restaurant* or *fast food restaurant* designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by patrons in or on motor vehicles parking or stopped on the premises.

Restaurant, Drive Through: Any *family restaurant* or *fast food restaurant* designed to permit or facilitate the serving of food or beverages directly to patrons in or on motor vehicles at a *drive-through facility*.

Restaurant, Family: Any establishment whose main business function is the retail sale of food for consumption on the premises, and which does not have on the premises an area from which *minors* are excluded pursuant to I.C. 7.1-5-7-9, 10 and 11 or pursuant to any policy of the establishment.

Restaurant, Family, with Lounge: Any *family restaurant* which has on the premises an area constituting not more than twenty-five (25) percent of the *gross floor area* from which *minors* are excluded pursuant to I.C. 7.1-5-7-9, 10 and 11 or pursuant to any policy of the establishment.

Restaurant, Fast Food: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on-premise or off-premise.

Right-of-Way: Specific and particularly described land, property, or interest therein devoted to and subject to the lawful *use*, typically as a thoroughfare for passage of pedestrians, vehicles, or utilities, as set forth in a written grant, declaration or conveyance that is recorded in the Office of the Recorder of St. Joseph County, Indiana.

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Right-of-Way, Existing: The total *right-of-way* width of a *street* as created or expanded by the most recent grant, declaration or conveyance that is recorded in the Office of the Recorder of St. Joseph County, Indiana.

Right-of-Way, Public: Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality, County or State to be devoted to and subject to *use* by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as set forth in a written grant, declaration or conveyance that is recorded in the Office of the Recorder of St. Joseph County, Indiana.

Right-of-Way, Private: Specific and particularly described strip of privately-held land devoted to and subject to *use* for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as set forth in a written grant, declaration or conveyance that is recorded in the Office of the Recorder of St. Joseph County, Indiana.

Right-of-Way, Proposed: The recommended *right-of-way* width for a *street* based upon that *street's* classification in the officially adopted City of South Bend Thoroughfare Plan.

Roof-Mount: The placement of an *antenna*, *antenna array* or *flag* pole on the roof of an existing *building* or *structure*.

Secondary Approval: A review of a *planned unit development* required when the *development requirements* of a *planned unit development* are expressed only in *general terms* in the *PUD District Ordinance*.

Semi Cutoff: See *Cutoff, Semi*.

Setback: That distance measured perpendicularly from the *lot line* to the closest point of the *building*, *structure*, *sign structure*, *parking area* or any other permanent *improvement*.

Setback Line: A line that establishes the minimum distance that a *building*, *structure*, or portion thereof, can be located from a *lot line* or *right-of-way* line.

Setback, Maximum: The largest distance allowed by this Ordinance from a *front lot line* for the location of a *building*, *structure* or any other permanent *improvement* (excluding *parking areas*).

Semi-Trailer: A freight trailer, tanker or other large vehicles or machinery with a forward portion designed to be supported by a fifth wheel device of a truck tractor when in motion.

Setback, Minimum: The smallest distance required by this Ordinance from a *lot line* to the closest point of a *building, structure, sign structure, parking area, loading area, storage area*, or any other permanent *improvement*. A *minimum setback* may be a *minimum front setback, minimum side setback* or *minimum rear setback*. Said distance shall be measured perpendicularly from the *lot line*.

Setback, Minimum Front: The minimum distance required by this Ordinance from a *front lot line* to the closest point of the *building, structure, sign structure, parking area, loading area, storage area*, or any other permanent *improvement*. Said distance shall be measured perpendicularly from the *front lot line*.

Setback, Minimum Rear: The minimum distance required by this Ordinance from a *rear lot line* to the closest point of the *building, structure, sign structure, parking area, loading area, storage area*, or any other permanent *improvement*. Said distance shall be measured perpendicularly from the *rear lot line*.

Setback, Minimum Side: The minimum distance required by this Ordinance from a *side lot line* to the closest point of the *building, structure, sign structure, parking area, loading area, storage area*, or any other permanent *improvement*. Said distance shall be measured perpendicularly from the *side lot line*.

Side Façade: See *Façade, Side*.

Sidewalk: A defined pedestrian way which is typically constructed of concrete, separated from and located parallel to the improved surface of a *public street* or *private street*, and located within a *right-of-way* of said *street*.

Sign: Any object, device, display, *structure*, fixture, placard, announcement, declaration, demonstration or insignia, or part thereof, used to: draw attention; provide direction, information, identification; or, advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

Sign, A-Frame: A *portable sign* containing two (2) *sign faces* and whose framing is hinged at the apex at an angle less than forty-five (45) degrees.

Sign, Advertising: See *Sign, Off-Premise*.

Sign, Animated: Any *sign*, or any portion thereof, which moves, assumes any motion, uses a change in lighting to depict motion or create a special effect or scene, or gives the illusion of moving.

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Sign, Awning: Any *sign* or graphic printed on or in some fashion attached directly to the material of an *awning*.

Sign, Balloon: A *temporary sign* consisting of a bag made of light weight material which is either: (a) filled with a gas lighter than air; or, (b) continuously filled with blown air, and designed to rise or float in the atmosphere or is attached to the ground or a *building*.

Sign, Banner: A *sign* of lightweight fabric or similar material mounted to a pole or *building* at two (2) opposite edges or four (4) corners.

Sign, Building: Any *sign* placed upon or supported by a *building*, including, by way of example but are not limited to: *wall signs, projecting signs, awning signs, canopy signs, marquee signs, suspended signs* and *roof signs*.

Sign Cabinet: The frame of an internally illuminated *sign* which contains and supports the *sign face*. *Sign cabinet* does not apply to painted *signs* or one-piece, non-illuminated, individual letter *signs*.

Sign, Canopy: Any *sign* or graphic printed on or in some fashion attached directly to a *canopy*.

Sign, Changeable Copy: A *sign*, or portion thereof, where the message copy includes characters, letters or illustrations that can be physically altered without altering the primary surface of the *sign*. The message copy of a *changeable copy sign* may be changed manually in the field or through remote electronic or electric techniques. Methods of changing the message copy include the use of: (a) changeable letters, numbers, symbols and similar characters; (b) changeable pictorial panels; or, (c) rotating panels or other similar devices. See also *Sign, Electronic Variable Message*.

Sign, Electronic Variable Message (EVMS): A *sign*, or portion thereof, where the message copy includes characters, letters or illustrations that can be changed or rearranged electronically without touching or physically altering the primary surface of the *sign*. Message copy may be changed in the field or from a remote location.

Sign Face: See *Sign Surface*.

Sign, Flag: A *sign* of lightweight fabric or similar material mounted to a pole or *building* at one (1) edge or two (2) corners.

Sign, Freestanding: A *sign* that is attached to, erected on or supported by some *structure* (such as a pole, mast or frame) that is not itself an integral part of or attached to a *building* or *structure* where the principal function of such *building* or *structure* is something other than the support of a *sign*. See also *Sign, Monument* and *Sign, Pole*.

Sign, Incidental: A *sign* relating to the *lot* or *use* thereof which provides information or directions necessary or convenient for visitors coming on the *lot*, including but not limited to *signs* marking entrances and exits, *parking areas*, circulation direction, restrooms and pick-up or delivery areas.

Sign, Marquee: Any *sign* or graphic printed on or attached directly to a marquee.

Sign, Menu Board: A *sign* located in connection with a drive-through facility, which is oriented toward motor vehicles located in a drive-through lane, and which provides information to the occupants of motor vehicle, related to the products and services available at the drive through facility.



Freestanding Monument Sign

Sign, Monument: Any *freestanding sign* constructed in or on the ground surface with its *sign* display surface extending upward from the ground surface and which has the lowest portion of the sign display surface elevated by no more than the lesser of four (4) feet above grade or the one-half (1/2) the overall height above *grade*.

Sign, Nonconforming: A *sign* which qualifies as a *legally established nonconforming structure*.

Sign, Off-Premise: A *sign* which directs attention to an activity, business, entertainment, commodity, product, profession or service conducted, manufactured, offered or sold at a location other than the premises on which the *sign* is located.

Sign, On-Premise: A *sign* which directs attention to an activity, business, entertainment, commodity, product, profession or service conducted, manufactured, offered or sold on the premises where the *sign* is located.

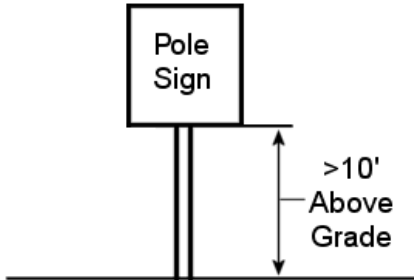
Sign, Outdoor Advertising: See Sign, *Off-Premise Sign*.

Sign, Outdoor Display Area: A *sign* located within an outdoor display area and which directs attention to or provides information about the display area or the good, products or merchandise on display.

Sign, Pennant: A *sign* of lightweight plastic, fabric, or other similar material which is suspended from a rope, wire or string, usually in a series, and which is designed to move in the wind.

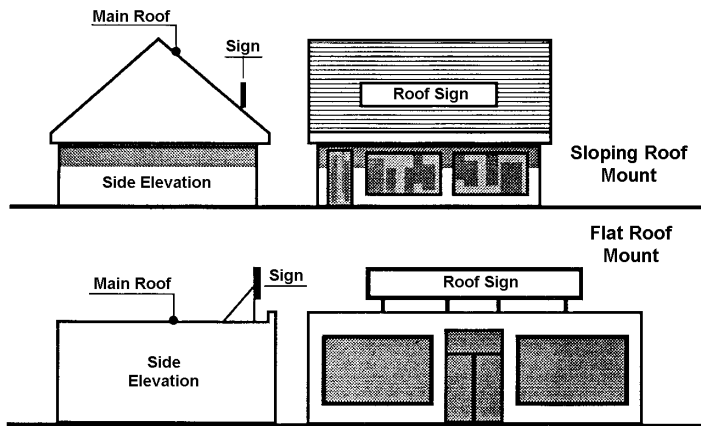
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Sign, Pole: Any *freestanding sign* which has its supportive *structure(s)* anchored in the ground and which has the lowest portion of its *sign display surface* elevated by more than ten (10) feet above the *grade*.



Sign, Portable: Any *sign* or *sign structure* not securely attached to the ground or other permanent *structure*, or a *sign* designed to be transported from place to place, including but not limited to: *signs* transported by means of wheels; a *sign* attached to a- or t-frames; a menu and sandwich board *sign*; a balloon used as a *sign*; table or patio umbrellas which include a *sign*; and, a *sign* attached to or painted on a vehicle parked and visible from the *public right-of-way*, unless said vehicle is used in the normal day-to-day operation of the business.

Sign, Projecting: Any *sign* which is affixed to a *building* or wall in such a manner that the leading edge extends more than eighteen (18) inches beyond the surface of such *building* or wall face.

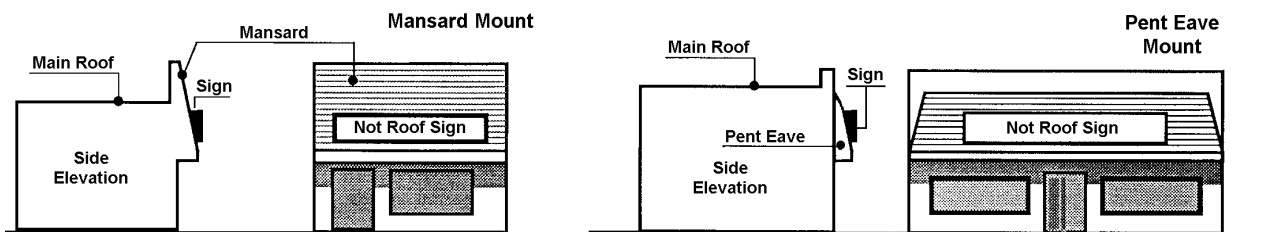


Examples of Roof Signs



Projecting Sign

Sign, Roof: Any *sign* erected on or wholly constructed upon a roof of any *building* and supported solely on the roof *structure*.



Examples of Signs Which Are Not Roof Signs

Sign, Spandrel: Any *sign* that is a part of or attached to the *spandrel*.

Sign Structure: Any *structure* including any pole, base, foundation, support, tie rods, upright, bracing or framework which supports or is capable of supporting any *sign*.

Sign Surface: The surface of the *sign* upon, against, or through which the message of the *sign* is exhibited.

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Sign Surface Area: The area of a *sign surface* (which is also the *sign surface area* of a *wall sign* or other *sign* with only one *sign face*). *Sign surface area* shall be computed by using the smallest area contained within one, two or three distinct squares, rectangles, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the *sign* from the backdrop or *structure* against which the *sign* is placed, but not including any supporting framework, bracing twenty-four (24) inches in width or less, or any decorative fence or wall when such fence or wall otherwise meets the applicable regulations of this Ordinance and is clearly *incidental* to the display itself.

Sign, Suspended: Any *sign* that is suspended from the underside of a horizontal plane surface and is connected to the horizontal plane surface.

Sign, T-Frame: A *portable sign* utilizing an inverted "T" style of framing to support the *sign*.

Sign, Temporary: Any *sign* or *sign structure* which is not permanently affixed or installed, and is intended to be displayed for limited periods only. Examples of *temporary signs* include, but are not limited to *signs* erected or placed in connection with the following activities or occurrences: sale or lease of real estate; announcement of pending construction; special event; political campaign; *garage sale*; home improvement/ remodeling; model home; and, seasonal/holiday *signs*.

Sign, Wall: Any *sign* attached to or erected on a wall of a *building* or *structure*, with the exposed face of the *sign* in a plane parallel to the plane of said wall, within eighteen (18) inches of said wall, and containing only one *sign surface*.

Sign, Wind: A *sign* of lightweight fabric or similar material attached at one end to a pole or similar apparatus so as to swing freely, inflate and flutter by movement of the wind.

Sign, Window: Any *sign* placed: (a) inside of and within two (2) feet of a window; or, (b) upon a window, and is intended to be seen from the exterior of the window.

Single Use Site: An area of development (commercial / mixed use or industrial) on one *lot* occupied by one business. Any commercial / mixed use or industrial development which does not qualify as an *integrated center*.



Suspended Sign

Sketch Plan: A graphic representation of a *project* or *subdivision*, drawn to an appropriate scale by hand or other drawing method, and capable of depicting the general pattern proposed for the development of a *project* or *subdivision*.

South Bend's Neighborhood Based Organizations: Groups recognized by the City of South Bend which operate in a neighborhood to facilitate improvements and positively addresses neighborhood concerns by working with the City Administration and the Common Council.

Spandrel: A roof-like *structure* that covers the gasoline pump dispenser, serves as a second-tier *canopy*, may be a lighting source for the dispensing area, may identify the gasoline pumps by numerical or other designation, and may display *signs*.

Special Event: Any of the following occurrences: commencement of construction; fairs, carnivals, circus or festivals; grand openings; Independence Day; Labor Day; listing of properties for sale or lease; Memorial Day; posting of notices at the direction of a governmental agency; Presidents Day; Veterans Day; or other occurrence officially recognized by the Board of Public Works as a special event for the City of South Bend.

Special Exception Use: The *use* of land or the *use* of a *building* or *structure* on land which is allowed in the *district* applicable to the land only through the grant of a *special exception*.

Staff: Shall include: The *Executive Director* of the Area Plan Commission; the *Building Commissioner*; the *Zoning Administrator*; any employee of the Area Plan Commission; any employee of the Department of Code Enforcement; any attorney, agent or designee of the *Executive Director* of the Area Plan Commission; any attorney, agent or designee of the *Building Commissioner*; any attorney, agent or designee of the *Zoning Administrator*; or, any other employee of the City of South Bend related to the review, recommendation or approval process for development.

Storage, Outdoor: The storage of any product, goods, equipment, machinery, vehicles, boats, supplies, *building* materials or commodities, including raw, semi-finished and finished materials for a period of time in excess of one (1) week, the storage of which is not *accessory* to a residential *use*, provided, however, that vehicular parking and the display of automobiles, boats, trucks or farm equipment associated with a legally established dealership shall not be deemed *outdoor storage*.

Story: That part of a *building*, with an open height of no less than seventy-eight inches (78"), except a mezzanine, included between the upper surface of one floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A *basement* shall constitute a *story* only if it provided *finished floor area*. A *story* shall not include a mechanical penthouse.

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Story, Half: A *story* under a gable, gambrel or hip roof, to wall plates of which on at least two (2) opposite exterior walls, are not more than two (2) feet above the floor of such *story*.

Street: Any *public right-of-way* or *private right-of-way*, with the exception of *alleys*, essentially open to the sky and open and dedicated to the general public for the purposes of vehicular and pedestrian travel affording *access* to abutting property, whether referred to as a *street*, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a *right-of-way* for said purposes. A *street* may be comprised of pavement, shoulders, gutters, curbs, *sidewalks*, *parking spaces*, and similar features.

Street, Frontage: A *street* located along side and generally parallel with a more heavily traveled *street* and which provides *access* to abutting property(ies).

Street, Limited Access Highway: A *street* along which *access* is restricted due to the acquisition of *access* rights from adjoining properties by the appropriate governmental agency having jurisdiction over such *street*.

Street, Private: A privately-held *right-of-way*, with the exception of *alleys*, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording *access* to abutting property, whether referred to as a *street*, easement, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a *right-of-way* for said purposes. A *private street* may be comprised of pavement, shoulders, curbs, *sidewalks*, *parking spaces*, and similar features.

Street, Public: A publicly dedicated, accepted and maintained *right-of-way*, with the exception of *alleys*, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording *access* to abutting property, whether referred to as a *street*, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a *public right-of-way* for said purposes. A *public street* may be comprised of pavement, shoulders, gutters, curbs, *sidewalks*, *parking spaces*, and similar features.

Structure: Anything constructed or erected, the *use* of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, *structures* include *buildings*, mobile homes, fences, walls, *parking areas*, *loading areas*, towers, antenna and *signs*.

Structure-Mount: The placement of an *antenna* or *antenna array* on an existing *structure* such as a water tower, athletic field light standards, or electric-line transmission towers.

Surface-Mount: The placement of an *antenna* or *antenna array* on the existing or proposed surface of a *building* or *structure*.

Tavern: See *Bar*.

Tattoo, Body Piercing, Scarifying and Branding Establishments: All type of businesses required to be licensed under Chapter 13 of the South Bend Municipal Code where services are provided which include: deliberately scarring; burning; or, pricking the skin so as to leave a mark or a color that cannot be removed without a surgical procedure. This includes: figurative tattooing; permanent coloring; scarifying and branding; and, the piercing of the human body to create a permanent hole (excluding ear piercing services which meet all of the requirements of sub-section 13-148 of the South Bend Municipal Code).

Telecommunications: The transmission between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Antenna: See *Antenna, Telecommunications*.

Telecommunications Service: The offering of *telecommunications* for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Telecommunications Tower: A *structure* more than ten (10) feet tall, built primarily to support one or more *telecommunications antennas*.

Temporary Living Quarters: A *manufactured home dwelling* or *mobile dwelling* located on a *lot* and intended to serve as a temporary *dwelling unit* for a: *caregiver*; *carereceiver*; or, *family* in the process of building a permanent *single family dwelling* on a *lot*.

Temporary Seasonal Retail Sales: A *temporary use* established for a fixed period of time, for the retail sale of seasonal products, including, but not limited to, such items as food, Christmas trees, pumpkins, and live plants. A *temporary seasonal retail sales use* may or may not involve the construction or alteration of any permanent *building* or *structure*.

Temporary Use: A land *use* established for a limited and fixed period of time with the intent to discontinue such *use* upon the expiration of the time period.

Thoroughfare Plan: That portion of the City of South Bend *Comprehensive Plan*, or other officially adopted plan of the City of South Bend, which sets forth recommendations for major *street* alignments and *street* classifications.

Tobacco Store: A retail establishment whose primary business, in terms of *gross floor area* or sales, is related to the sale of tobacco products. A grocery store, convenience store, gasoline service station or drug store which sells tobacco products, but whose sales of such products is incidental to the overall *gross floor area* or sales receipts of the business, shall not be considered a *tobacco store*.

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Townhouse: *A multifamily dwelling with: (a) all dwelling units constructed in a row; (b) with each dwelling unit having an individual front and rear ingress and egress; and, (c) no dwelling unit located over another dwelling unit.*

Trailer: A non-automotive vehicle designed to be hauled on the road.

Transfer Station: A facility where solid waste is transferred from a vehicle or container to another vehicle or container for transportation. The term does not include the following:

- (a) a facility where the solid waste that is transferred has been generated by the facility; or,
- (b) a *recycling facility*.

Truck: A motor vehicle designed, used or maintained primarily for the transportation of property.

Truck Terminal: An area and *buildings* used for the temporary parking of motor freight vehicles or trucks of common carriers during unloading and loading of cargo or freight and where cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

Truck Tractor: A *truck* equipped with a fifth wheel device for the towing of a *semi-trailer*, tanker or other vehicles or machinery.

Underground Facilities: An *accessory structure* which is at least seventy-five (75) percent subterranean, utilized for storage of personal property or as a temporary shelter for people, such as a storm cellar or fallout shelter.

Use: The purpose or activity for which land, *buildings* or *structures* are designed, arranged, or which land, *buildings* or *structures* are occupied or maintained. (Ord. No. 10094-11)

Use, Permitted: See *Permitted Use*.

Vacant: A *structure* or *lot* that is not occupied or otherwise used for an allowable zoning activity. (Ord. No. 10094-11)

Variance: Permission granted by the *Board of Zoning Appeals* to depart from the literal requirements of this Ordinance.

Vehicular Canopy: See *Canopy, Vehicular*.

Wagering, off-track pari-mutual facility: A location, other than a racetrack, authorized by the Indiana Horse Racing Commission, at which pari-mutual wagering is conducted.

Waiver / Waived: Permission granted in connection with: (a) the approval of a *development plan*; (b) the approval of a *primary plat* for a *subdivision*; or, (c) a *special exception*, to allow a deviation from the *development standards* or *development requirements* of this Ordinance.

Walkway: A defined pedestrian way, typically improved with concrete or asphalt, which provides for pedestrian movement on private property. A *walkway* may or may not be located in an pedestrian easement.

Warehouse: A *building* or *structure*, including but not limited to a distribution center and truck terminal, for the storage and / or transfer of goods, materials or products awaiting shipment to another location for wholesale or retail trade. (Ord. No. 9783-07)

Whip Antenna: See *Antenna, Whip*.

Windblown Device: Any *banner*, *pennant*, spinner, *streamer*, propeller, disc, moored blimp, gas balloon or flag that is designed to inform or attract attention, whether or not such device carries a message, all or part of which is set in motion by or remains inflated by wind, mechanical, electrical or any other means.

Wireless Telecommunications Facility – Any facility constructed by or constructed for use by a licensed wireless telecommunication service provider and which consists of the equipment and structures involved in the receiving and transmitting of electromagnetic waves associated with wireless telecommunication services.

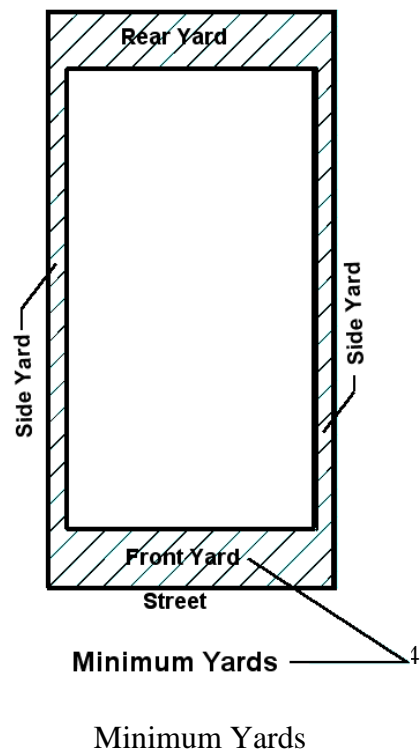
Yard: An *open space*, unobstructed to the sky, extending fully across the *lot* while situated between the *front lot line*, *side lot line* or *rear lot line* and the established *front building line*, *side building line* or *rear building line*.

Yard, Aggregate Side: The total combined distance of both *side yards* on an individual *interior lot* or *double frontage lot*.

Yard, Front: An *open space*, unobstructed to the sky, extending fully across the *lot* while situated between the *front lot line* and the established *front building line*.

Yard, Interior: An *open space*, unobstructed to the sky, extending out from the wall of a *multifamily dwelling*.

Yard, Minimum: An *open space* unobstructed to the sky, extended fully across the *lot* situated between a *lot*



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line and a setback line. Minimum yards may be a front yard, a side yard or a rear yard depending on which lot line the minimum yard abuts and is measured from.

Yard, Perimeter: *An open space, unobstructed to the sky, extending fully across the lot while situated between any front lot line, side lot line and rear lot line and the minimum front setback, minimum side setback and minimum rear setback.*

Yard Sale: *See Garage Sale.*

Yard, Side: *An open space, unobstructed to the sky, extending fully across the lot while situated between a side lot line and the established side building line.*

Yard, Rear: *An open space, unobstructed to the sky, extending fully across the lot while situated between the rear lot line and the established rear building line.*

Zoning Administrator: *The individual designated by the Common Council in this Ordinance as having the responsibility for the interpretation and administration of this Ordinance.*