

CHAPTER 19

DEFINITIONS

Section 19.01 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 Residential, to Office Buffer, to Commercial, to Industrial districts, in the sequence listed within each group of districts from least intense to the most intense.
- (K) Any words not defined shall be construed in their general accepted meanings as defined by *Webster's Dictionary*.

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Section 18.02 Definitions.

The following terms or words used in the text of this Ordinance shall have the following meanings, unless a contrary meaning is either required by the context of a particular sentence or phrase, or specifically prescribed in a particular sentence or phrase.

“ABANDONED” means 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” means the way in which vehicles ingress and egress a lot from a street fronting along the lot.

“ACCESS DRIVE” means 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 LIVING QUARTERS” means no more than two (2) dwelling units incidental to and located within the same building as the non-residential primary use.

“ACCESSORY (STRUCTURE, BUILDING OR USE)” means 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 BUSINESS” See Chapter 12.

“ALLEY, PRIVATE” means 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” means 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 a lot or lots.

“ANTENNA” means any structure or device designed and used to:

- (1) Receive direct broadcast satellite service, including direct-to-home satellite services;

- (2) Receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services;
- (3) Receive radio or television broadcast signals; or
- (4) 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**” means a structure attached to a telecommunications tower that supports a telecommunications antenna.

“**ANTENNA, DISH**” means 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.

“**ANTENNA, FLAGPOLE**” means 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**” means an antenna which is not a whip antenna, such as *dish antennas*, panel antennas, etc.

“**ANTENNA, PANEL**” means a flat, rectangular antenna or antenna array designed to concentrate a radio signal in a particular area. Panel antennas are also known as directional antenna or sectored antenna.

“**ANTENNA, RADIO/TELEVISION**” means 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**” means panel antennas that are mounted directly to a 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**” means an antenna used to provide a telecommunications service.

“**ANTENNA, STEALTH**” means 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

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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: flagpole antenna; slick antenna; or 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” means an omni-directional dipole antenna of cylindrical shape, which is no more than six (6) inches in diameter.

“AREA BOARD OF ZONING APPEALS” means the Board of Zoning Appeals having jurisdiction over all real property within the *Town*.

“AREA PLAN COMMISSION” means the Area Plan Commission of St. Joseph County, Indiana, established pursuant to the Area Planning Law of the State of Indiana.

“ASSEMBLY (when used in reference to an industrial operation)” means the fitting together of previously manufactured parts or sub-assemblies that do not require additional manufacturing or machining, into a finished item or unit. All assembly operations are to be conducted entirely within an enclosed building.

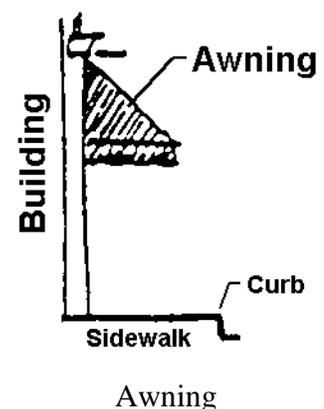
“AUTHORIZED AGENT” means any party duly authorized in writing by the Owner of a subject parcel to act on the Owner's behalf with respect to any development petition, including but not limited to a petition for: zone map change; platting of a subdivision; development plan approval; variance; special exception use; or, vacation of land in a plat.

“AUTOMOTIVE USES” means any business or operation where the vehicles are serviced, sold, or rented, including but not limited to: automobile sales, body repair, car washes, detailing, lubrication, mechanical repairs, painting and tire repair and replacement. **AUTOMOTIVE USES** do not include salvage yards, vehicle storage, or similar uses otherwise defined in this chapter.

“AWNING” means 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” means a premises used primarily for the sale or dispensing of liquor and/or alcoholic beverages 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

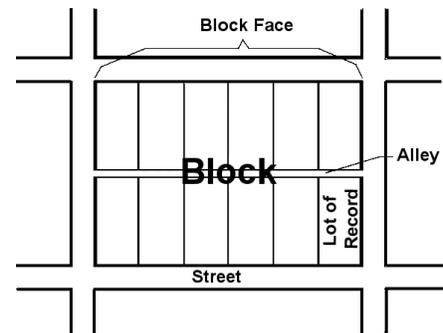


the primary use.

“BASEMENT” means 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” means 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.

“BLOCK” means 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 & Block Face

“BLOCK FACE” means the frontage of a block, which may contain one or more lots, along one side of a public street or private street between intersections.

“BOARD OF ZONING APPEALS” See **AREA BOARD OF ZONING APPEALS**.

“BUILDING” means 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” means the Building Commissioner of St. Joseph County, Indiana.

“BUILDING DEPARTMENT” means the South Bend/St. Joseph County Building Department.

“BUILDING HEIGHT” means 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, antenna attached to a building or structure shall not be included in the calculation of building height.

“BUILDING LINE” means 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.

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“**BUILDING PERMIT**” means a permit issued in compliance with the terms and provisions of the Building Code for the *Town*.

“**BUSINESS**” means an enterprise involving selling, storing or processing goods or commodities, or the rendering of services.

“**BUSINESS DAY**” means a day when the offices of the Town of Osceola or the *Area Plan Commission* are open to the public for the transaction of business for the entire period of its normal operating hours.

“**CALIPER**” means the diameter of a tree trunk, measured in inches, at six (6) inches above the ground.

“**CANOPY**” means 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.

“**CARPORT**” means 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.

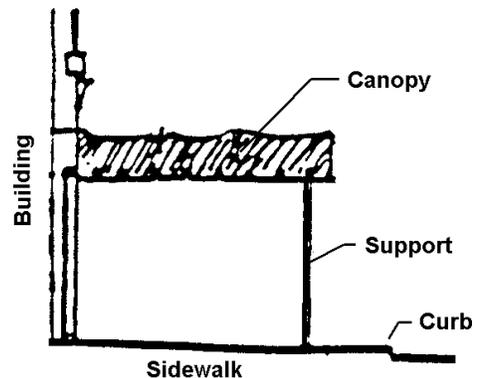
“**CASINO**” means a building, facility or room where any gambling games, not operated by a qualified organization are conducted. (For reference see Indiana Code 4-32.2 et. seq.)

“**CERTIFICATE OF OCCUPANCY**” means a certificate issued authorizing an occupancy under the *Building Code*.

“**CHILD CARE**” means a service that provides for the care, health, safety and supervision of a child's social, emotional and educational growth.

“**CHILD CARE CENTER**” means a nonresidential building where at least one (1) child receives child care from a provider:

- (1) while unattended by a parent, legal guardian, or custodian;
- (2) for regular compensation; and
- (3) 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.



Canopy

“CHILD CARE HOME” means 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 or any child who is at least fourteen (14) years of age and does not require child care) at any time receive child care from a provider:

- (1) while unattended by a parent, legal guardian, or custodian;
- (2) for regular compensation; and
- (3) 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.

“CHILD CARING INSTITUTION” means an institution that:

- (1) Operates under a license issued under IC 31-27;
- (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 IC 4-22-2 by the department of child services.

“CHILD CARE MINISTRY” means child care operated by a church or religious ministry, that is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

“CLUB” means an association or corporation organized, in good faith, under authority of law; owning, leasing or occupying an establishment operated solely for objects of a nation, social, patriotic, religious, political, or athletic nature, or the like; such as but not limited to Kiwanis, Knights of Columbus, Lions Club, Elks Lodge, Veterans of Foreign Wars, American Legion, etc.

“CO-LOCATION” means the placement of two or more antenna or *antenna arrays* by telecommunication service providers on a common support structure.

“COMMITMENT” means 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” means the Comprehensive Plan for the *Town*, or any supplemental or replacement comprehensive plan subsequently recommended by the *Area Plan Commission* and adopted by the *Council* pursuant to Indiana law.

“CONCEPT PLAN” means 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.

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“CONDITIONAL USE”. See *USE, CONDITIONAL*

“CONDOMINIUM” means 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. (See Indiana Code 32-25).

“CONFORMING” means 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” means those uses of property which are recognized as having serious objectionable characteristics, particularly when several of them are concentrated, thereby having a deleterious effect upon the adjacent areas, specifically including, but not necessarily limited to *adult business*.

“COTTAGE SCHOOL” means a private school which provides educational services for a maximum of six (6) children at a time; is operated in a residential property as a home occupation; and provides educational instruction for students between and including grades K – 12.

“COUNCIL”. See *TOWN COUNCIL*.

“CUTOFF” means 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” means 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” means a luminaire where light distribution is unrestricted.

“CUTOFF, SEMI” means 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” means 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.

“DEVELOPMENT PETITION” means 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” means 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” means 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” means 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*.

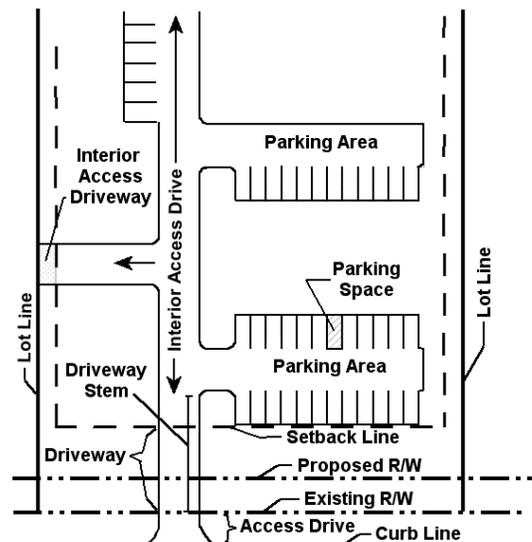
“DISTRIBUTION CENTER”. See *TRUCK TERMINAL*.

“DISTRICT” means any *zoning district* or *overlay district* applicable to a section of the territory within the jurisdiction of this Ordinance.

“DISTRICT, OVERLAY” means 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.

“DISTRICT, ZONING” means 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.

“DRAINAGE POND” means an artificially created body of water which is required in connection with a storm water management system, also known as a detention basin or as a retention basin.



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“DRIVE, INTERIOR ACCESS” means a way for internal vehicular movement in and around an individual lot or integrated center.

“DRIVE-THROUGH FACILITY” means 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” means 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” means 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” means 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 a bed & breakfast.

“DWELLING, ACCESSORY LIVING QUARTERS”. See **ACCESSORY LIVING QUARTERS**.

“DWELLING, MANUFACTURED HOME” means 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 and which bears a seal certifying that it was built in compliance with the National Manufactured Housing Construction and Safety Standards Code.

“DWELLING, MODULAR” means a dwelling unit designed and built in a factory for installation or assembly at the building site, which bears a seal certifying that it was built in compliance with I.C. 16-41-27-1 et. seq.

“DWELLING, MULTI-FAMILY” means a building consisting of three (3) or more dwelling units including condominiums, with varying arrangements of entrances and party walls.

“DWELLING, SINGLE FAMILY” means 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 Town of Osceola Building Code; or
- (b) a *modular dwelling*; or
- (c) a *manufactured home dwelling*.

“DWELLING, TWO FAMILY” means 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” means a room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for sleeping, lawful cooking, and sanitary facilities. The term shall include *mobile homes, modular dwellings* and *manufactured home dwellings* but shall not include recreational vehicles.

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

“EXECUTIVE DIRECTOR” means 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.

“FAÇADE” means 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 front, side or rear building elevation.

“FAMILY” means one (1) or more persons related by blood, marriage, legal adoption, foster care or guardianship, living and cooking together as a single housekeeping unit, exclusive of incidental domestic servants and temporary, non-compensating guests; or, not more than three (3) persons not so related, living and cooking together as a single housekeeping unit. 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.

“FITNESS CENTER” means a facility where individuals and families receive instructional training and perform activities such as but not limited to: aerobics, dance, floor exercises, gym-related equipment activities, martial arts and yoga, and also known as a Lifestyle or Wellness Center.

“FLAG” means a rectangular piece of fabric of distinctive design that is used as a symbol or as a decoration.

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“FLOOR AREA” means:

- (1) 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.
- (2) 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.

“FLOOR AREA, GROSS” means 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, MAIN” means that portion of the finished floor area located on the first floor of the primary building.

“FOUNDATION LANDSCAPING” means landscaping installed along or in relation to the perimeter foundation of a building or structure.

“FOUNDATION LANDSCAPING AREA” means 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.

“FRONTAGE” means all the property of a lot fronting on a street right-of-way.

“FULL CUTOFF”. See *CUTOFF, FULL*.

“GAME COURT” means 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” means 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.

“GASOLINE SERVICE STATION” means 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.

“GLARE” means 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.

“GRADE” means 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.

“GREENWAY” means 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 *Town* or the *County*.

“GROUP HOME” means a residential facility for children which, in addition to providing food and shelter, may also provide some combination of personal care, social services, counseling services or transportation to residents and is licensed by the State of Indiana.

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“GROUP RESIDENCE” means 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 student housing, 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” means any location where firearms are sold and/or repaired, or where ammunition is being sold and/or reloaded as the primary business items.

“HEALTH CARE FACILITY” means a place where the diagnosis, treatment, and prevention of disease, illness, injury, and other physical and mental impairments are conducted, such as but not limited to clinics, diagnostic centers, emergency care and medical laboratories.

“HISTORIC LANDMARK” means 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” means the research protection, maintenance, restoration, rehabilitation, reconstruction or development of historic landmarks and Historic Preservation Districts. For the purposes of this Ordinance, this definition shall apply to the preservation of exterior features only.

“HISTORIC PRESERVATION COMMISSION” means the Historic Preservation Commission established under the provisions of this Ordinance.

“HISTORIC PRESERVATION DISTRICT” means 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.

“IMPROVEMENT” means any man-made, immovable item which becomes part of, placed upon, or is affixed to real estate.

“IMPROVEMENT LOCATION PERMIT” means 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” means 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**.

“INTEGRATED CENTER” means an area of development (business / commercial, industrial, or any combination of business / commercial, industrial and residential uses) of one or more lots or outlots, 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.

“KENNEL” means any premise or portions thereof on which more than four dogs, cats or other household domestic animals over months of age are kept, or on which more than two such animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale for a period of greater than twenty-four (24) hours.

“LAWFUL COOKING” means 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 and oven, either singly or in combination, for cooking food, and a refrigerator of at least 7.5 cubic foot in size for the safe storage of food at temperatures of 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.

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“LEGALLY ESTABLISHED” means 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**.

“LOADING AREA” means 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” means 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.

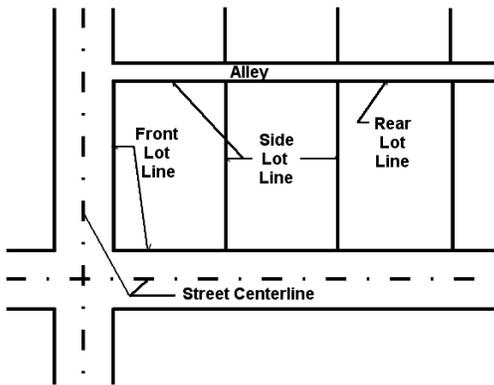
“LOADING SPACE” means a hard-surfaced, off-street area used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

“LOT” means:

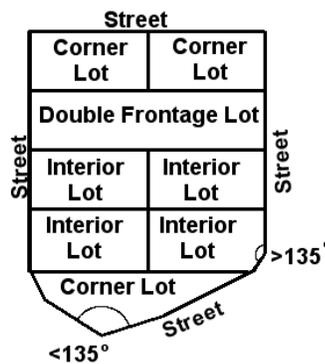
- (1) A piece, parcel, plot or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and may consist of:
 - (a) a single *lot of record*; or,
 - (b) a combination of complete *lots of record*.

- (2) For purpose of this definition, the ownership of a lot is further defined to include:
 - (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 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).

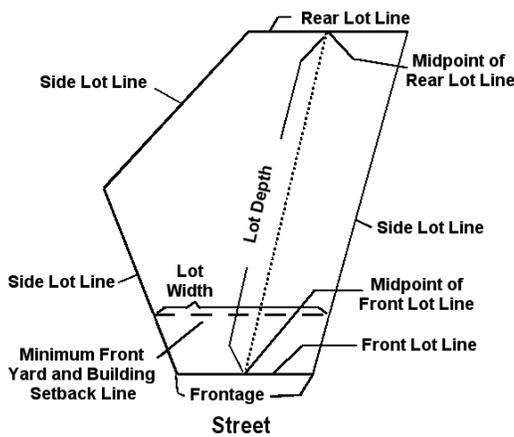
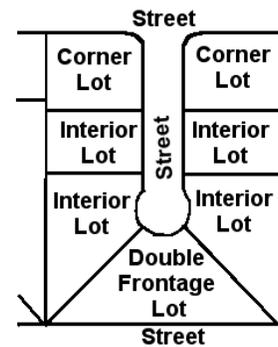
“LOT AREA” means the total area of a lot bounded on all sides by any front lot line, rear lot line, and side lot line, provided, however, lot area shall not include: any area lying within the right-of-way of any public street or private street or easement for surface access into the subject lot or adjoining lots; land reserved for drainage ponds, wetlands; 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.



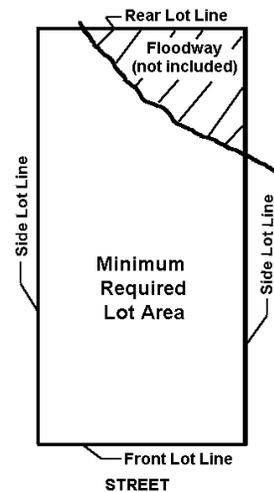
Lot Lines



Types of Lots



Lot Depth & Lot Width



Lot Area

Chapter 19 Definitions

“LOT, CORNER” means 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. On corner *lots*, any *yard* which abuts a street *right-of-way* line shall be considered a *Front Yard*.

“LOT COVERAGE” means 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, DOUBLE FRONTAGE” means a lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot.

“LOT, INTERIOR” means a lot which is not a corner lot, or a double frontage lot.

“LOT LINE” means the line of separation of a lot from any abutting street or adjoining lot.

“LOT LINE, FRONT” means the lot line separating a lot from any abutting street or limited access highway. Corner *Side Yard* - on corner *lots*, any *yard* which abuts a street *right-of-way* line shall be considered a *Front Yard*.

“LOT LINE, REAR” means 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” means any lot line not designated as a front lot line or rear lot line.

“LOT OF RECORD” means 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 prior to December 31, 1993.

“LOT WIDTH” means the full width of a lot measured along the minimum front yard and minimum building setback line required by this Ordinance.

“LUMINAIRE” means 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” means 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.

“MANUFACTURING” means the mechanical or chemical transformation of materials or substances into new products or into a useable form. **MANUFACTURING** 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” means a food sales and service establishment, 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.

“MINERAL EXTRACTION” means includes mining, quarrying and removal of earth materials, such as but not limited to and, gravel, topsoil or other aggregate, and the screening, crushing or washing of the extracted materials.

“MINI (SELF STORAGE) WAREHOUSE”. See **WAREHOUSE, MINI (SELF STORAGE)**.

“MOBILE HOME” means any vehicle or portable structure designed for long term occupancy, containing sleeping accommodations, a flush toilet, a bathtub or shower, kitchen facilities, and plumbing and electrical connections providing for attachment to outside systems; designed to be transported after fabrication on its own wheels, flatbed truck, or other trailer or detachable wheels; which, when arriving at the site where it is to be occupied as a complete dwelling unit, including major appliances, and ready for occupancy except for minor and incidental unpacking and assembly operation, is located on foundation supports, and is connected to external utilities and electrical system. **MOBILE HOME** does not include Modular Homes or Manufactured Homes, Type A.

“NON CUTOFF”. See **CUTOFF, NON**.

“NON-WHIP ANTENNA”. See **ANTENNA, NON-WHIP**.

“NONCONFORMING” means 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” means any building or structure erected or constructed but which fails to conform to the present requirements of the district.

Chapter 19 Definitions

“NONCONFORMING BUILDING OR STRUCTURE, LEGALLY ESTABLISHED” means 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” means any land use which fails to conform to the present requirements of the district.

“NONCONFORMING USE, LEGALLY ESTABLISHED” means 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” means the use to which a building or premises is devoted.

“OFFICE” means a place in which business, clerical, or professional activities are conducted; a place of business of a commercial, industrial or governmental organization, or of a professional person or business, such as but not limited to: accountants, attorneys, business offices, court houses, call center, dentists, dispatchers, doctors, insurance, labs, optometrists, private investigators, real estate and telemarketers conducted entirely within a primary building, and where no bulk storage, display or sales of merchandise is permitted. Also known as a “professional office”.

“OPEN SPACE” means a lot, a portion of a lot or common area set aside as a playground, plaza, park, parkway, greenbelt, 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.

“OUTDOOR DISPLAY AREA” means 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” means 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, ACTIVE” means an open space improved with active recreational facilities, including but not limited to: basketball and tennis courts; baseball, golf course, football, soccer or softball fields; pavilions; playgrounds, etc., and maintained for the continued use and enjoyment of area residents.

“PARK, PASSIVE” means an open space improved with passive features, including but not limited to: park benches and walking trails and maintained for the continued use and enjoyment of area residents.

“PARKING AREA” means 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, OFF-STREET” means a parking area located completely on a lot and accessed via drives or driveways to a public or private street, and in which no individual parking spaces gain direct access to a public or private street, and also known as a Parking Lot.

“PARKING, ON-STREET” means an area located partially or completely within the right-of-way of a public street or private street where vehicles are permitted to park.

“PARKING LOT, ACCESSORY” means the use of a lot in a Residential District or Office Buffer 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 an Office Buffer, Commercial or Industrial District; or, (ii) located in an Office Buffer, Commercial 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 an Office Buffer, Commercial or Industrial use and, where practical, are developed in compliance with all off-street parking standards and all landscaping standards applicable parking lots in an Office Buffer, Commercial or Industrial District.

“PARKING SPACE” means that portion of the parking area used only for the temporary placement of an operable motor vehicle.

“PENNANT”. See *SIGN, PENNANT*.

“PERFORMANCE BOND” means a legally binding agreement whereby the developer or subdivider posts a surety for the construction of improvements, installations and lot improvements required by this Ordinance, any other applicable ordinances of the Town of

Chapter 19 Definitions

Osceola, and any requirements, covenants, conditions or commitments which may be imposed pursuant to this Ordinance.

“PERMITTED USE” See *USE, PERMITTED*.

“PERSONAL SERVICE ESTABLISHMENT” means a business that provides an intangible commodity to a consumer that is primarily consumed on site such as, but not limited to barber, hairdresser, massage, nail salon, office activities, pet grooming, photography studio and tanning. Accessory sales of products directly associated with the **PERSONAL SERVICE ESTABLISHMENT** is permitted as long as such sales are clearly incidental and subordinate to the principle activity.

“PLAN COMMISSION”. See *AREA PLAN COMMISSION*.

“PLAN REVIEW COMMITTEE (PRC)” means a committee of technical consultants established to provide the Executive Director, and the Building Commissioner / 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.

“PRIMARY BUILDING” means the building in which the primary permitted use of the lot is conducted.

“PRIMARY USE” means 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.

“PUBLIC SERVICE and UTILITY USE” means a use of land providing a variety of utility services over a wide geographic area, such as but not limited to: utility substations for electrical and gas distribution; radio and television transmitting or relay station and antenna towers and arrays; filtration plants, pumping stations and water reservoirs and towers; and sewage treatment plants.

“RECREATIONAL FACILITY” means a facility used in the pursuit of athletic and exercise activities, such as but not limited to: baseball & softball; batting cages; bowling alleys; golf ranges; gymnastics; swimming pools; court-style sports such as basketball, soccer and volleyball, game machines, go-cart tracks, skateboard facilities, model car or model railroad tracks, ice and roller skating rinks, roller coasters, water slides, and any and all assortment of mechanical rides, amusement booths, restaurants, and snack areas etc.

“RECREATIONAL VEHICLE” means 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 FACILITY” means an operation that collects and processes, in part or in whole, salvageable waste material and subsequently sorts, cleans, combines and/or reduces (dismantles) such material for subsequent reuse, and which is transported off-site to be reprocessed into new materials. Salvageable waste material includes but is not limited to brick, chemical products, cloth, concrete, electronics, glass, household products, paper, plastics, rubber, metals, motor vehicles and wood products. **RECYCLING FACILITY** includes a transfer station.

“RELIGIOUS USE” means a land use, and all buildings and structures associated therewith, devoted primarily to the purpose of divine worship on a regular basis, 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 FACILITY FOR DEVELOPMENTALLY DISABLED” means a residential facility established under IC 12-11-1.1-1 (e)(1) and (2) and further regulated by IC 12-28-4-8 for not more than eight (8) individuals.

“RESIDENTIAL FACILITY FOR MENTALLY ILL OR DISABLED” means a residential facility as regulated and licensed by the State of Indiana, and further regulated by IC 12-28-4-7 where such facilities must be separated by 3,000 in a residential area, as measured between lot lines.

“RETAIL SALES” means the sale of commodities or goods directly to the consumer including but not limited to antique shop, bakery shop, convenience store, department store, florist, grocery store and hardware store.

“RIGHT-OF-WAY” means 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.

“RIGHT-OF-WAY, EXISTING” means 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.

Chapter 19 Definitions

“RIGHT-OF-WAY, PUBLIC” means 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” means 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” means the recommended right-of-way width for a street based upon that street's classification in the officially adopted Thoroughfare Plan for the *Town*.

“ROOF-MOUNT” means the placement of an antenna, antenna array or flag pole on the roof of an existing building or structure.

“SALVAGE YARD” means an operation that collects and processes, in part or in whole, parts from salvageable waste material for reuse and resale from the property as a retail business. **SALVAGE YARD** includes junk yard and auto salvage, but does not include antique shop, pawn store and not-for-profit operations where the salvageable material is within a completely enclosed building.

“SEASONAL SALES” means 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.

“SEMI CUTOFF”. See **CUTOFF, SEMI**.

“SEMI-TRAILER” means 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” means 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” means 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, MINIMUM” means 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.

“SIGN” means 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” means 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, BILLBOARD”. See **SIGN, OFF-PREMISE**.

“SIGN, ANIMATED” means 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.

“SIGN, BANNER” means a temporary sign of lightweight fabric or similar material, mounted to a pole or building.

“SIGN, BUILDING” means any sign placed upon or supported by a building, including, but not limited to: wall signs, projecting signs, awning signs, canopy signs, marquee signs, suspended signs and roof signs.

“SIGN CABINET” means the frame of a 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, CHANGEABLE COPY” means 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.

Chapter 19

Definitions

“SIGN, ELECTRONIC MESSAGE CENTER (EMC)” means 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, FREESTANDING” means a sign principally supported by one or more columns, poles, or braces placed in or upon the ground. May also be referenced as ground signs, pole signs, pylon signs, or monument signs.

“SIGN, INCIDENTAL” means 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, MENU BOARD” means a permanent 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.

“SIGN, NONCONFORMING” means a sign which qualifies as a legally established nonconforming structure.

“SIGN, OFF-PREMISE” means 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” means 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.

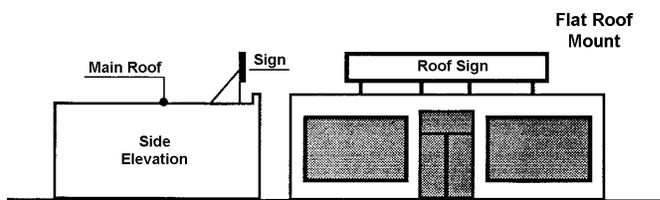
“SIGN, PORTABLE” means any sign or sign structure not securely attached to the ground or other permanent structure, or a sign designed to be transported from place to place, including but not limited to: signs transported by means of wheels; a sign attached to a- or t-frames; a temporary menu and sandwich 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**” means 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.

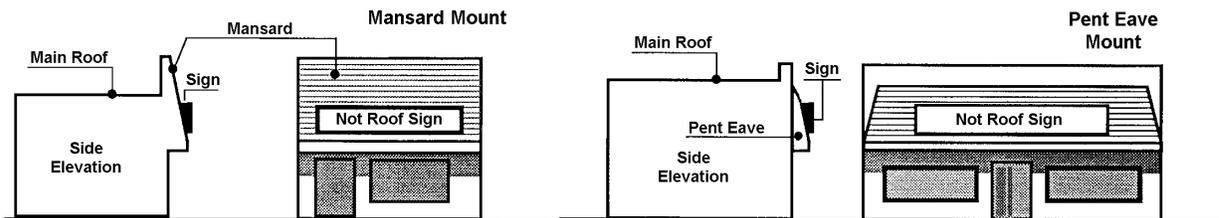
“**SIGN, ROOF**” means any sign mounted on the main roof portion of a building or on the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building.



Projecting Sign



Examples of Roof Signs



Examples of Signs Which Are Not Roof Signs

“**SIGN STRUCTURE**” means 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**” means the surface of the sign upon, against, or through which the message of the sign is exhibited.

“**SIGN, T-FRAME**” means a portable sign utilizing an inverted "T" style of framing to support the sign.

“**SIGN, TEMPORARY**” means 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.

Chapter 19 Definitions

“**SMALL WIND ENERGY CONVERSION SYSTEM (SWECS)**” means a **WIND ENERGY CONVERSION SYSTEM** consisting of a wind turbine with its associated tower and control or conversion electronics, whose dual purpose is to primarily reduce on-site consumption of utility power, and to produce clean on-site energy for uses such as but not limited to homes, farms, schools and businesses. A **SWECS** can consist of a system either designed to be firmly anchored into the ground using a self-supporting tower, or firmly anchored to the sides or roof of the primary or accessory structure, or a combination thereof.

“**SPANDREL**” means 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**” means 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 *Town* as a special event for the *Town*.

“**SPECIAL EXCEPTION USE**” See **USE, SPECIAL EXCEPTION**.

“**STAFF**” means the *Executive Director of the Area Plan Commission*; the *Building Commissioner*; the *Zoning Administrator*; any employee of the *Area Plan Commission*; any attorney, agent or designee of the *Executive Director*; any attorney, agent or designee of the *Building Commissioner*; any attorney, agent or designee of the *Zoning Administrator*; or, any other employee of the *Town* related to the review, recommendation or approval process for development.

“**STANDARDS**” means a specific and detailed listing of materials and construction methods, including standards of construction and design, as adopted by the *Town*.

“**STORAGE, OUTDOOR**” means the storage of any product, goods, equipment, machinery, vehicles, boats, supplies, building materials or commodities, including raw, semi-finished and finished materials, 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.

“**STREET**” means 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.

“**STRUCTURE**” means anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground such as but not limited to buildings, decks and like structures over thirty (30) inches in height, mobile homes, fences, walls, towers, antenna and signs.

“**STRUCTURE-MOUNT**” means 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.

“**SUBDIVIDER**” means the owner, developer, or authorized agent of the owner or developer of real estate, who is responsible for all designs, reservations and Improvements related to the petition for primary or secondary plat approval or the development of a subdivision.

“**SUBDIVISION**” means the division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision. **SUBDIVISION** includes the division or development of land opened for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

“**SURFACE-MOUNT**” means the placement of an antenna or antenna array on the existing or proposed surface of a building or structure.

“**TELECOMMUNICATIONS**” means 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**” means 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**” means a structure more than ten (10) feet tall, built primarily to support one or more telecommunications antennas.

“**TEMPORARY USE**”. See **USE, TEMPORARY**.

“**THOROUGHFARE PLAN**” means that portion of the *Comprehensive Plan*, or other officially adopted plan of the *Town*, which sets forth recommendations for major street alignments and street classifications.

“**TOWN**” means the Town of Osceola, Indiana.

Chapter 19 Definitions

“TOWN COUNCIL” means the Town Council of the Town of Osceola, Indiana.

“TOWN ENGINEER” means the Town Engineer of the Town of Osceola, Indiana.

“TOWNHOUSE” means a multifamily dwelling with all dwelling units constructed in a row; with each dwelling unit having an individual front and rear ingress and egress.

“TRAILER” means a non-automotive vehicle designed to be hauled on the road.

“TRUCK TERMINAL” means 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. A **TRUCK TERMINAL** is also known as a *distribution center*.

“UNDERGROUND FACILITIES” means 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” means the purpose or activity for which land, buildings or structures are designed, arranged, or intended or which land, buildings or structures are occupied or maintained.

“USE, CONDITIONAL” means a use which, by its nature and potential impact upon adjacent property and the *Town* as a whole, requires review and approval by the *Board of Zoning Appeals*.

“USE, PERMITTED” means 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.

“USE, SPECIAL EXCEPTION” means 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 use.

“USE, TEMPORARY” means 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.

“VARIANCE” means permission granted by the *Board of Zoning Appeals* to depart from the literal requirements of this Ordinance.

“VEHICULAR CANOPY” means a roofed, open, drive through structure designed to provide temporary shelter for vehicles and vehicle occupants while receiving a business service.

“**VETERINARY**” means a place of business where the medical or surgical treatment of animals, especially domestic animals, is provided. **VETERINARY** does not include the boarding of animals for more than 24 hours.

“**WAGERING, OFF-TRACK PARI-MUTUAL FACILITY**” means a location, other than a racetrack, authorized by the Indiana Horse Racing Commission, at which pari-mutual wagering is conducted.

“**WAREHOUSE**” means a building or structure for the storage and / or transfer of goods, materials or products awaiting shipment to another location for wholesale or retail trade. **WAREHOUSE** may also include but not be limited to a **DISTRIBUTION CENTER** and **TRUCK TERMINAL**.

“**WAREHOUSE, MINI (SELF STORAGE)**” means 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.

“**WHIP ANTENNA**”. See **ANTENNA, WHIP**.

“**WIND ENERGY CONVERSION SYSTEM**” means any combination of equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire or other component used in the system. A **WIND ENERGY CONVERSION SYSTEM** includes, but is not limited to, a *small wind energy conversion system* and a *wind energy facility*.

“**WIND ENERGY FACILITY**” means an electricity generating facility consisting of one (1) or more commercially-rated wind turbines under common ownership or operating control, and whose main purpose is to supply electricity to off-site customer(s), and includes but is not limited to substations, MET Towers, cables/wires and operations and maintenance buildings accessory to such facility. A **WIND ENERGY FACILITY** is also known as a “wind farm” or a “wind power plant”.

“**WIRELESS TELE-COMMUNICATIONS FACILITY**” means 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**” means 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, INTERIOR**” means an open space, unobstructed to the sky, extending out from the wall of a multifamily dwelling.

Chapter 19 Definitions

“YARD SALE”. See *GARAGE SALE*.

“ZONING ADMINISTRATOR” means the individual designated by the *Council* as having the responsibility for the interpretation and administration of the Zoning Ordinance of the *Town*.