

## ARTICLE I. DWELLING DISTRICT REGULATIONS

### Sec. 731-101. Construction of language.

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

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this ordinance and any illustration or diagram, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - c. "Either...or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(G. O. No. 100, 1989, § 2, 11-20-89)

### Sec. 731-102. Definitions.

The words in the text of this article and Article II of this chapter shall be interpreted in accordance with the definitions set forth below.

- (1) **Abut**: To physically touch or border upon; or to share a common property line.
- (2) **Access**: The way by which vehicles shall have ingress to and egress from a land parcel or property and the either street fronting along said property or parcel or an abutting alley.
- (3) **Access drive**: That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property. (See Diagram A.)
- (4) **Accessory**: 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, and use, and is located on the same lot as the primary building, structure, or use.
- (5) **Administrator**: Administrator of the Division of Planning or his/her appointed representative.
- (6) **Agricultural enterprise**: The land use of farming, cultivation of crops, dairying, pasturage, horticulture, floriculture, viticulture, animal and poultry husbandry, with the necessary, accompanying accessory use(s), building(s), or structure(s) for housing, packing, treating, or storing said products.
- (7) **Alley**: 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(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from said lot(s).
- (8) **Alteration**: Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

- (9) **Antenna:** A device that is designed to receive:
- a. Direct broadcasts satellite service, including direct-to-home satellite services; or
  - b. Video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or
  - c. Television broadcast signals.
- (10) **Attached multifamily dwelling:** See "Dwelling, multifamily attached."
- (11) **Awning:** A roof-like cover, often of fabric, metal or glass designed and intended to either protect from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or a similar feature.
- (12) **Balcony, exterior:** An unenclosed platform structure supported by and projecting from the exterior side of a building gaining sole access from said building, and designed and intended for either decorative purposes or lounging, dining, and similar activities.
- (13) **Basement:** That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half ( 1/2) or more of its interior vertical height clearance below grade level.
- (14) **Bathhouse:** An accessory building of one (1) or more rooms not open to the public, designed and intended for exclusive use by occupant(s) of the primary use and their guest(s) as dressing room(s) and may or may not include sanitary facilities.
- (15) **Bed and breakfast:** The commercial leasing of bedroom(s) for guest(s) within a private, owner-occupied, one- 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 travelling public.
- (16) **Boardinghouse:** A community facility, other than hotels, motels, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants thereof, is provided for a fee.
- (17) **Buildable area:** The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met. (See Diagram B.)
- (18) **Building:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having an enclosed space and a permanent roof supported by columns or walls.
- (19) **Building area:** The total ground area, within the lot or project, covered by the primary structure, plus garages, carports and other accessory structures which are greater than eighteen (18) inches above grade level, excluding fences and walls not attached in any way to a roof (See Diagram B.)
- (20) **Cabana:** Same as "Bathhouse".
- (21) **Canopy:** A rooflike cover, often of fabric, metal, or glass on a support, which is supported in total or in part, from the ground providing shelter over a doorway or outside walk.
- (22) **Carport:** A roofed structure designed and intended to shelter the automotive vehicle(s) of the premises' occupant(s) or owner(s), with at least one (1) side permanently open to the weather.
- (23) **Child,** per IC 12-7-2-28: An individual who is less than eighteen (18) years of age.
- (24) **Child care,** per IC 12-7-2-28.2: A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.
- (25) **Child care home,** per IC 12-7-2-28.6:

- a. 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:
  - 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.
- b. The term includes:
  - 1. A class I child care home;
  - 2. A class II child care home; and
  - 3. Exempt licenses, per 470 IAC 3-1.1-26.

(26) **Class I child care home**, per IC 12-7-2-33.7:

- a. A child care home that serves any combination of full-time and part-time children, not to exceed twelve (12) children at any one (1) time.
- b. A child:
  - 1. For whom the provider of care is a parent, stepparent, guardian, custodian or other relative; and
  - 2. Who is at least seven (7) years of age; shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

(27) **Class II child care home**, per IC 12-7-2-33.8:

- a. A child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time.
- b. A child:
  - 1. For whom the provider of care is a parent, stepparent, guardian, custodian, or other relative; and
  - 2. Who is at least seven (7) years of age; shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

(28) **Cluster**: A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features in perpetuity.

(29) **Cluster subdivision**: A form of development for single-family residential subdivisions that permits a reduction in the minimum lot: area, width, setback and open space requirements and to concentrate development in specific areas of the subdivision while also maintaining the same overall density permitted under a conventional subdivision in a given zoning district, and, the remaining land area is devoted to open space, or recreational areas in perpetuity.

(30) **Collector street**: See "Street, collector".

(31) **Commission**: The Metropolitan Development Commission of Marion County, Indiana.

(32) **Commitment**: An officially recorded agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

(33) **Comprehensive plan**: The applicable comprehensive or master plan for Marion County, Indiana, or a segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4-500 Series, and all acts amendatory thereto.

(34) **Condition**: An official agreement between the municipality and the petitioner concerning the use or development of the land as specified in the letter of grant of a variance, special exception or approval petition as signed by the Administrator.

- (35) **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.
- (36) **Corner lot:** See "Lot, corner".
- (37) **Covenant:** A private legal restriction on the use of land contained in the deed, plat and other legal documents pertaining to the property.
- (38) **Covenant, parol:** A verbal, binding agreement, made at a public parol hearing, restricting the use of the land.
- (39) **Covered open space:** See "Open space, covered".
- (40) **Crown of the street:** The highest point of pavement between the existing curb lines of a street cross-section, most often at the centerline.
- (41) **Cul-de-sac:** See "Street, cul-de-sac".
- (42) **Curb cut:** The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street. (See Diagram A.)
- (43) **Curb line:** A line located on either edge of the pavement, but within the right-of-way line. (See Diagram A.)
- (44) **Deck:** A ground-supported, unenclosed, accessory platform structure, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised eighteen (18) inches or more above grade level designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.
- (45) **Double dwelling:** Same as "Dwelling, two-family".
- (46) **Drip line:** The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.
- (47) **Driveway:** Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line. (See Diagram A.)
- (48) **Duplex:** Same as "Dwelling, two-family".
- (49) **Dwelling, manufactured home:** A unit which is fabricated in one (1) 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. Every module shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. The unit must have been built after January 1, 1981, have at least nine hundred fifty (950) square feet of main floor area (exclusive of garages, carports, and open porches), and exceed twenty-three (23) feet in width.
- (50) **Dwelling, mobile:** A movable or portable unit fabricated in one (1) 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. The unit is designed for occupancy by one (1) family, and erected or located as specified by Chapter 8, Article III, Division IV of the Code of Indianapolis and Marion County, and which was either:
- a. Constructed prior to June 15, 1976, and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or,
  - b. 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.

(51) **Dwelling, modular home:** A unit which is fabricated in one (1) 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, designed for occupancy by one (1) family unit. Every module shall bear the seal certified that it was built in compliance with Indiana Public Law 360. The unit must have been built in compliance with the CABO One- and Two-Family Dwelling Code.

(52) **Dwelling, multifamily:** See "Dwelling, attached multifamily".

(53) **Dwelling, attached multifamily:** A building for residential purposes with three (3) or more dwelling units, having common or party walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).

(54) **Dwelling, single-family:** A site-built building for one (1) dwelling unit.

(55) **Dwelling, two-family:** A building designed originally for residential occupancy by two (2) families living independently of each other, which contains two (2), legally complete, dwelling units. Each unit in a two-family dwelling is completely separated from the other by either; a) an unpierced wall extending from ground to roof; or, b) an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

(56) **Dwelling unit:** One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.

(57) **Erect:** Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

(58) **Excavation:** The breaking of ground, except common household gardening, ground care and agricultural activity.

(59) **Family:** One (1) or more human beings related by blood, marriage, adoption, foster care or guardianship together with incidental domestic servants and temporary, noncompensating guests; or, not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.

(60) **Fence.** A type of structural barrier usually made of posts supporting such items, by way of example, as chain link, wood pickets, lattice-work, and similar items.

(61) **Finished floor area:** 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 previously identified shall not be considered finished floor area.

(62) **Floor area:** For one- and two-family dwelling units, 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 a building shall exclude all areas with a vertical height clearance less than seventy-eight (78) inches, exterior open balconies, and open porches.

For attached or detached multifamily dwelling(s), 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, this does 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 or basement floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space;
- d. Floor or basement floor area provided for recreational uses, available to occupants of two (2) or more living units within a project; or
- e. Basement floor area provided for storage facilities, allocated to serve individual living units within a project.

(63) **Floor area ratio (FAR):** The aggregate floor area of all stories of all buildings within the project divided by the land area.

(64) **Front lot line:** See "Lot line, front".

(65) **Front yard:** See "Yard, front".

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

(67) **Frontage, public street:** The line of contact of abutting property with the public street along the front lot line which allows unobstructed direct access to the property.

(68) **Full control of access:** The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access said property(ies), including the location and connection with public streets, is controlled by public authority. Full control of access gives preference to through vehicular traffic movement, by providing access connections with selected public streets only, and by prohibiting both crossings at grade and direct driveway connections.

(69) **Game court:** 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 structure, designed and intended for the playing of a recognized sport as an accessory, recreational activity by the occupants and guests of the primary structure, which may include fencing, screening, nets, goals, or other necessary appurtenances required for the recreational use.

(70) **Garage, residential:** A building accessory to a residential use, or an enclosed area attached 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.

(71) **Gazebo:** A roofed, ground-supported, unenclosed, accessory platform structure, usually constructed of wood, stone, brick, or metal designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.

(72) **Grade, established street:** The crown elevation of a street pavement level abutting the property as fixed by the appropriate government agency(ies).

(73) **Grade level (adjacent ground elevation):** The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from said walls, between said walls and a line ten (10) feet away from and paralleling said walls.

(74) **Gross acre:** A horizontal measure of land area equal to forty-three thousand five hundred sixty (43,560) square feet.

(75) **Ground cover:** Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, or a similar feature.

(76) **Ground floor:** That story which contains finished floor area closest to but not below grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.

(77) **Group home:** A residential facility for the developmentally disabled (as defined by IC 12-7-2-166) or a residential facility for the mentally ill (as defined in IC 12-7-2-167), licensed by the Community Residential Facilities Council, or its successor in authority in accordance with a program described in:

- a. IC 12-11-1 (residential facility for the developmentally disabled); or
- b. IC 12-22-2-3(2) through 12-22-2-3(6) (residential facility for the mentally ill).

(78) **Handicap ramp:** Same as "Pedestrian ramp".

(79) **Hard-surfaced:** Quality of an outer area being solidly constructed of pavement, brick, paving stone, tile, wood, or a combination thereof.

(80) **Hedge:** A row or rows of closely planted shrubs, bushes, or combination thereof creating a vegetative barrier.

(81) **Height, building:** The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- a. The elevation of the highest adjoining sidewalk or ground surface within a ten (10) foot horizontal distance from and paralleling the exterior wall of the building or structure when said sidewalk or ground surface is not more than ten (10) feet above lowest grade; or
- b. An elevation ten (10) feet higher than the lowest grade when said sidewalk or ground surface is more than ten (10) feet above the lowest grade.

(82) **Heliport:** An area of land, water or structural surface which is used, or intended for use, for the lawful landing and takeoff of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and auxiliary facilities, such as, parking areas, waiting rooms, fueling, storage and maintenance equipment areas.

(83) **Helistop:** An area of land, water or structural surface which is used, or intended for use, for the landing and takeoff of helicopters, without the provision of fueling, repair, maintenance or storage facilities.

(84) **Home occupation:** An occupation or business activity carried on within:

- a. A legally established dwelling unit, or;
- b. An associated accessory structure (in those cases where the business activity is a legally established nonconforming occupation which occupies such associated accessory structure), by a resident of said dwelling, where the occupation or business activity is clearly incidental and subordinate to the residential use and does not alter the character thereof.

(85) **Hospital:** An institution housed in a building, group of buildings or portion thereof, providing primary health services and psychological, medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient or training facilities.

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

(87) **Interior access drive:** A minor, private or public street providing access within the boundaries of a project beginning at the required setback line. (See Diagram A.)

(88) **Interior access driveway:** Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels. (See Diagram A.)

- (89) **Land area:** The total horizontal area within the project boundaries, plus the area of half of any abutting alley or street rights-of-way.
- (90) **Landscaping:** Any combination of sculpture, fountains, pools, and walkways with substantial living vegetation, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained and groomed to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion, drainage and wind control.
- (91) **Legally established nonconforming building or structure:** Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment, or granted variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.
- (92) **Legally established nonconforming use:** Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.
- (93) **Livability space:** The open space minus the vehicle area within the open space.
- (94) **Livability space ratio (LSR):** The livability space divided by the floor area.
- (95) **Local street:** See "Street, local".
- (96) **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 occupied or intended for occupancy by a use permitted in the zoning ordinances for Marion County, Indiana, including one (1) or more main buildings, accessory uses thereto and the required yards as provided for the zoning ordinances of Marion County, Indiana and may consist of:
- a. A single lot of record; or
  - b. A portion of a lot of record; or
  - c. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.
- A lot may or may not coincide with a lot of record. 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 township assessor;
  - b. A contract vendee;
  - c. A long-term lessee (but only if the lease is recorded among the records of the County Recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit). (See Diagram C.)
- (97) **Lot area:** The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street or easement for surface access ingress or egress into the subject lot or adjoining lots.
- (98) **Lot, corner:** A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. (See Diagram C.)
- (99) **Lot, through:** A lot which fronts upon two (2) parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot. (See Diagram C.)
- (100) **Lot line:** The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

(101) **Lot line, front:** The lot line(s) separating the lot from street rights-of-way; in the case of a corner lot, both lot lines separating the lot from the street rights-of-way shall be considered front lot lines; or, in the case of a through lot, the lot line which most closely parallels the primary entrance of the primary structure shall be considered the front lot line. (See Diagram B.)

(102) **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 with the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot line, any lot line which intersects with a front lot line shall not be considered a rear lot line.

(103) **Lot line, side:** Any lot line not designated as a front or rear lot line.

(104) **Lot of record:** A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the Office of the Recorder of Marion County, Indiana. A lot of record is not necessarily a piece, parcel, plot or tract designated or used for single ownership.

(105) **Main floor area:** The area of a horizontal plane fully bound by the exterior walls of the primary building or structure of the floor surface at or above grade level exclusive of vent shafts, decks, garages, uncovered or covered open space.

(106) **Major livability space:** The total area in a project provided for outdoor recreation, relaxation, amusement, pleasure and for similar use within the project, which area may or may not be improved; however, all livability space countable for purposes of computing the major livability space ratio shall be at least twenty (20) feet away from any ground floor residential wall containing one (1) or more windows and shall have a minimum linear dimension averaging eighty (80) feet, except that an area of lesser dimension is countable if:

- a. The total required major livability space is less than six thousand four hundred (6,400) square feet, or
- b. The shape or topography of the site alone prevents compliance with the minimum dimensions.

(107) **Major livability space ratio (MLSR):** The total major livability space of countable size divided by the aggregate floor area.

(108) **Manufactured home:** See "Dwelling, manufactured home".

(109) **Marginal access street:** See "Street, marginal access".

(110) **Mini-barn:** A freestanding, completely enclosed, accessory building constructed of stone, brick, metal or wood designed with a rural character and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also "Shed".)

(111) **Minor emergency repairs:** Those maintenance repairs necessitating immediate solution yet not posing an immediate life safety hazard, nor altering the existing character of the structure (See "Alteration").

(112) **Mobile dwelling:** See "Dwelling, mobile".

(113) **Mobile dwelling project:** See "Project, mobile dwelling".

(114) **Modular home:** See "Dwelling, modular home".

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

- (116) **Mulch:** A protective covering of vegetative substances placed around plants to prevent evaporation of moisture, freezing, and to control weeds.
- (117) **Multifamily dwelling:** See "Dwelling, multifamily".
- (118) **Off-street:** A location completely on private land, and completely off of public rights-of-way, alleys and any interior surface access easement for ingress and egress.
- (119) **Open porch:** An unenclosed structure, open to the sky, supported from the ground and attached to or a part of a building at the area of entrance or exit to said building facilitating access to said building from the ground.
- (120) **Open space:** The total horizontal area of all uncovered open space plus one-half ( 1/2) of the total horizontal area of all covered open space.
- (121) **Open space, covered:** All exterior space within the project, which is open and exposed to the weather, but not open above to the sky. It includes porches, carports, covered exterior balconies and exterior spaces covered by portions of buildings.
- (122) **Open space, uncovered:** In D-6, D-6II, D-7, D-8, D-9, D-10 and D-11 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II and D-12 districts; and D-8 single- and two-family dwellings: the lot area, minus the building area.
- (123) **Open space ratio (OSR):** The open space divided by the floor area.
- (124) **Parking area:** An area of paving 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 of access for the egress/ingress of automotive vehicles to and from the actual parking space. (See Diagram A.)
- (125) **Parking space:** An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle. (See Diagram A.)
- (126) **Part-time:** A period of at least twenty-five (25) percent less than a regular or customarily full schedule of a specific activity, such as employment.
- (127) **Partial control of access:** The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access said property(ies), including the location and connection with public streets, is controlled by public authority. Partial control of access gives preference to through vehicular traffic movement to a degree that, in addition to access connections with selected public streets, there may be crossings at grade and some driveway connections.
- (128) **Patio:** A hard-surfaced area accessory to the primary structure or use 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 occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles. (See also "Deck.")
- (129) **Patio, covered:** A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one (1) side open to the weather and permanently roofed or similarly covered. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles.
- (130) **Paved-stand:** A permanent area specifically designed and intended for the location, securing, and use of a mobile dwelling on a non-temporary basis encompassing completely the area immediately below or covered by such dwelling including necessary plumbing, power, and other utility installations. The mobile dwelling's foundation, consisting of runners, ribbons or piers, usually made of concrete for the purpose of blocking the dwelling, are within this area.

- (131) **Pavement:** A layer of concrete, asphalt or coated macadam used on street, sidewalk, or airport surfacing.
- (132) **Paving:** See "Pavement".
- (133) **Pedestrian ramp:** An inclined access opening along the curblin e at which point pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, may enter or leave the street; or, an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, access from the ground to an elevated surface.
- (134) **Perimeter yard:** See "Yard, perimeter".
- (135) **Permitted use:** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.
- (136) **Plat:** An officially recorded map, as recorded in the Office of the Marion County Recorder, or a map intended to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.
- (137) **Porch:** A roofed structure with at least one (1) 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.
- (138) **Porte-cochere:** A roofed, sheltering structure supported from the ground and attached to or a part of a building, which projects over an entrance/exit, walkway, driveway, or similar feature.
- (139) **Primary building:** The building in which the permitted primary use of the lot is conducted.
- (140) **Principal homestead:** The dwelling unit in which the primary users of the agricultural enterprise reside.
- (141) **Project:** A lot or parcel of contiguous land to be developed for a use or uses permitted in the D-6, D-6II, D-7, D-8, D-9, D-10, D-11 dwelling districts, which at the time of development is under one (1) ownership or control, and subsequently may be subdivided, developed, or conveyed into smaller lots or parcels.
- (142) **Project boundaries:** The perimeter lot lines encompassing the entire project as indicated in the Office of the Marion County Recorder.
- (143) **Project, mobile dwelling:** An area of contiguous land separated only by a street(s) upon which three (3) or more mobile dwellings are designated spaces or lots for the purpose of being occupied as primary residences and includes all real and personal property used in the operation of said mobile dwelling project or, an area of contiguous land separated only by a street, that is subdivided and contains individual lots which are or intended to be sold, leased or similarly contracted for the purpose of being occupied as a primary residence, is a mobile dwelling project if three (3) or more lots or sites are designated specifically to accommodate mobile dwellings.
- (144) **Public street frontage:** See "Frontage, public street".
- (145) **Rear yard:** See "Yard, rear".
- (146) **Recreation facility:** A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.
- (147) **Recreation facility, commercial:** A recreation facility operated as a for profit business and open to the public for a fee.
- (148) **Recreation facility, personal:** A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests without a fee.
- (149) **Recreation facility, private:** A recreation facility operated by a nonprofit organization, and open only to bona fide members and guests of such nonprofit organization.

- (150) **Recreation facility, public:** A recreation facility operated by a governmental agency and open to the general public.
- (151) **Recreational vehicle:** A vehicle, which may be motorized, non-motorized, self-propelled or towed, designed and intended specifically for non-commercial use, such as temporary living, travel, and leisure activities, including the trailer that may transport the vehicle. Examples include but not limited to boats, jet skis, race cars, all-terrain bikes, motor homes, travel trailers, and camping trailers. [Amended G.O. 63, 2005]
- (152) **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 or residential uses.
- (153) **Residential in character:** Possessing the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height, bulk, materials, detailing and similar features.
- (154) **Right-of-way:** Specific and particularly described land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage of pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.
- (155) **Right-of-way, public:** Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality 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 officially recorded by the Office of the Marion County Recorder.
- (156) **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 officially recorded by the Office of the Marion County Recorder.
- (157) **Setback:** The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line. (See Diagram B.)
- (158) **Setback line:** A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line. (See Diagram B.)
- (159) **Shed:** A freestanding, completely enclosed, accessory building, designed and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also "Mini-barn".)
- (160) **Shrub:** A woody plant of relatively low height branching from the base not exceeding ten (10) to twelve (12) feet in height.
- (161) **Side yard:** See "Yard, side".
- (162) **Sidewalk:** A hard-surfaced walk or raised path along and paralleling the side of the street for pedestrians.
- (163) **Single-family dwelling:** See "Dwelling, single-family".
- (164) **Skirting:** The rigid physical attachments to a mobile dwelling designed and intended to completely screen, shelter, and protect the unit's base and entire area between the unit's floor surface and the ground surface, which includes, but not limited to, all electrical and plumbing conduits, insulation material, and undercarriage.
- (165) **Site plan:** The development plan, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot as required by ordinance, in order that an informed decision can be made by the approving authority.

(166) **Storage area:** An area designated, designed and intended for the purpose of reserving personal property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

(167) **Storage room:** An enclosed area integrated into and sharing common or party wall or walls within a primary building, while designed and intended for the purpose of reserving personal property for a future use.

(168) **Story:** That part of a building, with an open height of no less than seventy-eight (78) inches, except a mezzanine, included between the upper surface of one (1) 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 provides finished floor area.

(169) **Street, collector:** A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets, collectors, and arterials with direct access to abutting property(ies). (See Diagram D.)

(170) **Street, cul-de-sac:** A street having only one (1) open end and being permanently terminated by a vehicle turn around. (See Diagram D.)

(171) **Street, expressway:** A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at relatively high speeds (e.g., forty-five (45) mph) with partial control of access. The function of an expressway is primarily to move traffic rather than to serve abutting property(ies). Access control on an expressway is characterized by medians, marginal access streets and selective intersection location.

(172) **Street, freeway:** A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at high speeds (e.g., fifty-five (55) mph) with full control of access. The primary function of a freeway is the movement of traffic, particularly long trips made within or through the county.

(173) **Street, local:** A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies). (See Diagram D.)

(174) **Street, marginal access:** A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies). (See Diagram D.)

(175) **Street, parkway:** Any street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, with partial control of access thereto, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and thoroughfare plan. Partial control of access to a parkway permits access connections only at street intersections.

(176) **Street, primary arterial:** A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite and channelize high volumes of vehicular traffic movement at moderate speeds (e.g., thirty-five (35) to forty-five (45) mph) between arterials, expressways, and freeways with partial control of access. The function of a primary arterial is primarily to move traffic rather than to serve abutting property(ies).

(177) **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, 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 space, and similar features.

- (178) **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, road, 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 space, and similar features.
- (179) **Street, secondary arterial:** A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite medium to high volumes of vehicular traffic movement at moderate speeds (e.g., thirty-five (35) to forty-five (45) mph) between collectors, arterials, expressways, freeways, and abutting property(ies) with partial control of access. Secondary arterials carry a higher percentage of short trips than do primary arterials.
- (180) **Structural barrier:** A physical structure, such as a fence, wall, or railing, that forms a boundary of, or enclosure to, a property or acts as a division between properties.
- (181) **Structure:** A combination or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.
- (182) **Subdivision:** The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development, provided however, that the division of land into parcels of more than three (3) acres, not involving any new streets or easements of access, and the transfer or exchange of parcels between adjoining landowners, if such transfer or exchange does not create additional building lots, shall not constitute a subdivision for purposes of this ordinance.
- (183) **Temporary use:** An impermanent 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.
- (184) **Terrace:** An open, raised bank or banks of earth having vertical or sloping side(s) and a horizontal top.
- (185) **Thoroughfare:** A street primarily serving thorough vehicular traffic, including freeways, expressways, primary thoroughfares, and secondary thoroughfares as designated by the thoroughfare plan.
- (186) **Thoroughfare plan:** The applicable segment of the comprehensive or master plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to Chapter 283 of the Acts of the Indiana General Assembly for 1955, and all acts amendatory thereto, which sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary thoroughfares, secondary thoroughfares, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.
- (187) **Through lot:** See "Lot, through".
- (188) **Total car ratio (TCR):** The total number of parking spaces divided by the number of dwelling units.
- (189) **Total floor area:** The aggregate floor area of all stories of the primary buildings or structures.
- (190) **Trash enclosure:** An accessory structure enclosed on all sides, possessing a solid, securable door or gate for access designed and intended to completely screen and protect waste receptacles from view on all sides, and to prevent waste debris from dispersal outside the receptacles or enclosure.
- (191) **Tree survey:** An inventory of all trees on a lot or project prior to any site development preparation, identifying species, location, caliper, and drip line of trees.

(192) **Two-family dwelling:** See "Dwelling, two-family".

(193) **Uncovered open space:** In D-6, D-6II, D-7, D-8, D-9, D-10, D-11 and D-12 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-8, and D-12 districts: the lot area, minus the building area.

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

(195) **Unit:** A single, complete entity.

(196) **Usable roof area:** The total roof area, within the project or residential buildings, garages and accessory buildings which has been improved for outdoor uses of occupants. Roof areas used for the storage of automotive vehicles are included.

(197) **Vehicle area:** Uncovered or covered area used for vehicular traffic, maneuvering and parking. Included are all parking areas, driveways, interior access drives and rights-of-way of all streets and alleys within the project, plus the area of half of any abutting alley or street rights-of-way.

(198) **Walkway:** A hard-surfaced walk or raised path for pedestrians.

(199) **Yard, front:** An open space unobstructed to the sky, extending fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B.)

(200) **Yard, interior:** An open space unobstructed to the sky, extending fully across the mobile dwelling site while situated between the edge of pavement of the street or interior access drive and a line paralleling thereto, which passes through the nearest point of any building or structure and terminates at the intersection of the individual mobile dwelling site's boundary lines.

(201) **Yard, perimeter:** A required yard of a project, in addition to front, rear and side yards, situated between and extending along the project boundary and an interior line paralleling thereto. The width of said yard shall be determined by the applicable zoning district zoning classification of the ordinance. (See Diagram E.)

(201) **Yard, rear:** An open space unobstructed to the sky extending fully across the lot situated between the rear lot line and a parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B.)

(202) **Yard, side:** An open space unobstructed to the sky extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first. (See Diagram B.)

(G. O. No. 100, 1989, § 2, 11-20-89; G.O. No. 150, 1990, § 1(E), 8-27-90; G. O. No. 4, 1992, § 1(Q), 2-24-92; G.O. 24, 1995, § 1(E), (F); G.O. 46, 1997, § 1(G), (H); G.O. 47, 1997, § 1(I); G.O. 2, 2002, § 5; G. O. No. 63, 2005, § 7-11-05)

Cross references: Definitions generally, ch. 102.