

## Chapter 13

# DEFINITIONS

**13.01 Rules of Construction:** For the purpose of this Ordinance, certain rules of construction apply to the text, as follows:

- A. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B. The terms "shall" and "must" are always mandatory and not discretionary; the words "may" or "should" are permissive.
- C. For the purpose of this Ordinance, only terms having a specific or narrow meaning will be defined. Words and phrases defined herein shall be given the defined meaning. Whenever any words or phrases used herein are not defined herein but are defined in the State laws regulating the creation and function of various local planning agencies or local building codes, that definition will apply. The dictionary definition will be used for terms not specifically defined in this Ordinance except where the context clearly indicates a different or specified meaning.
- D. The word "person" includes a firm, organization, association, partnership, trust, company, or corporation, as well as an individual.
- E. The words "use" or "occupy" shall include the words "intended," "designed," or "arranged" to be "used" or "occupied."
- F. The word "building" includes the word "structure," or "any portion of a building or structure."
- G. The word "year" means the twelve (12) month period from the date of approval/disapproval of requested action.
- H. The masculine includes the feminine.
- I. Whenever any reference is made in this Ordinance to any other section or provision of this or other ordinances, such reference shall be deemed to include the provision(s) or regulation(s) to which the reference is made.

**13.02 Definitions:** The following definitions shall apply in interpretation and enforcement of this Ordinance, unless otherwise specifically stated:

**Abandonment.** To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of

remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

**Abutting.** Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

**Accessory Building or Structure.** A subordinate building or structure having a use customarily incidental to and located on the lot occupied by the main building. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

**Accessory Use.** A structure or use that: a) is clearly incidental to and customarily found in connection with a principal building or use; b) is subordinate to and serves a principal building or a principal use; c) is subordinate in area, extent, or purpose to the principal building or principal use served; d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and e) is located on the same lot as the principal building or use served.

#### **Adult Uses.**

**Adult arcade.** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines, for viewing by five or fewer persons, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (See end of adult use list for the ordinance's definition of "specified sexual activities" or "specified anatomical areas.")

**Adult bookstore.** An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

**Adult cabaret.** A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

**Adult motion picture theater.** An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are

shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. Churubusco Zoning Ordinance

**Adult theater.** A theater, concert hall, auditorium, or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities.

**Massage parlor.** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

**Sexual encounter establishment.** An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

**Specified anatomical areas.** As used herein, specified anatomical areas means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, or 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified sexual activities.** As herein, specified sexual activities means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, .2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any activities set forth in subdivisions 1 through 3 of this subsection.

**Agricultural District.** The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities and shall not in any way constitute an independent commercial or industrial use. The operation of commercial feed lots or pens, sales yards, auction yards for cattle or hogs, and meat packing or food canning plants shall be deemed an industrial and not an agricultural use

**Airport.** An area of land or water that is used or intended to be used for the landing and take-off of aircraft, and includes its buildings and facilities, if any.

**Alley.** A minor public or private right-of-way shown on a plat, providing secondary vehicular access to the rear or side of a lot, block, or parcel of land otherwise abutting a street

**Alteration.** Any addition, removal, extension, or change in the construction or occupancy of an existing building or structure.

**Amusement Arcade.** A building or part of a building in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

**Antenna (antenna tower):** Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

**Apartment or Apartment Dwelling.** A suite of rooms comprising a portion of a building (distinguished from a mobile home) as an independent dwelling for one family, while the remaining portion of the building is another dwelling, or other dwellings, or use other than dwelling, such as a business.

**Appellant.** An "appellant" refers to any person, firm, partnership, corporation or other business organization, public official, head of any administrative department, or member of any public board which appeals a decision of the Administrator or any building inspector of the building and zoning division.

**Applicant.** An "applicant" means any person, firm, partnership, corporation, or other business organization which applies to the Churubusco Board of Zoning Appeals or to the Churubusco Plan Commission for action by said Board or Commission thereby affecting that land.

**Aquaculture.** Land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

**Aquifer.** A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.

**Aquifer Recharge Area.** An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into ground water.

**Area, Project.** 1) Gross Project Area (GPA) - Total project area. 2) Net Project Area (NPA) - Total project area less land allocated to public street right-of-way, private streets, parking areas and any land allocated to specified non-project uses such as schools and

churches when determining the "net residential project area" to be used as a basis for calculating the number of permitted dwelling units for a Planned Unit Development.

**As Built Plans.** Construction plans revised to show a facility or structure as actually constructed and as it appears on the tract of land involved.

**Automobile** (Automotive). As used herein, the term includes passenger cars, motorcycles, vans, pickup trucks, recreational vehicles or similar motorized vehicles.

**Basement.** A floored and walled substructure of a building at least fifty (50) percent below the average finished grade of the building.

**Bed and Breakfast: Homestay.** A small establishment, having one to three bedrooms for rent to transients as an activity which is subordinate and incidental to the main residential use of the building (meaning the operator of the B&B shall live on the premises). These are generally treated as tourist homes.

**Board.** The Churubusco Board of Zoning Appeals.

**Boarding House or Lodging House.** A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for four or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

**Buffer Area.** A landscaped area intended to separate and partially or substantially obstruct the view of two adjacent land uses or properties from one another.

**Building.** Any roofed structure built for the support, shelter, enclosure, or protection of persons, animals, chattels or moveable property of any kind (each part of such a structure that is separated from the rest by unbroken party (common) walls is considered to be a separate building for the purpose of this Ordinance).

**Building Coverage.** The proportion of the lot area, expressed as a percent that is covered by the maximum horizontal cross-section of a building or buildings.

**Building Height.** The vertical distance measured from the adjoining curb grade to the highest point of the roof surface, if a flat roof; to the deck line of a mansard roof; and the mean height between eaves and ridge for a gable, hip, or gambrel roof. Where a building is set back from the street line, the height of the building shall be measured from the average elevation of the finished grade along the front of the building.

**Building Line or Setback Line.** A line parallel to a street right-of-way line, edge of a stream, or other property line established on a parcel of land or lot for the purpose of prohibiting construction of a building or structure in the area between such building line and right-of-way, stream bank, or other property line.

**Bulk.** The term used to indicate the size and setback of building or structure and the location of same with respect to another building or structure or to a lot line and includes the following. size and height of building or structure; location of exterior walls of a building in relation to lot lines, streets, or other buildings; the floor area of a building in relation to the area of the lot on which it is located; the open space allocated to a surrounding a building; and the amount of lot area per dwelling unit

**Business District.** Those districts, LB and GB, as described under Chapter 6, Business Districts.

**Campground.** Any site, lot, field, or tract under single ownership, or ownership of two or more people, designed with facilities for short term occupancy by recreational vehicles and other camping equipment but not including mobile homes.

**Cemetery.** Includes any columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

**Child Care Center.** A commercial licensed enterprise located in a business district in which child care is provided.

**Child Care Home.** A maximum of four (4) non-related children, may currently be cared for in the home without State Licensing. Five (5) to fifteen (15) children, excluding those who reside in the residence, may be cared for in the home if the resident obtains a Special Exception and maintains continuous State Licensing. See Section 5.03.A for more information.

**Church.** An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held. This term does not include accessory uses such as bingo parlors, coffee houses, day care centers, rental halls, etc.

**Clinic.** An establishment in which patients are admitted for medical or dental study or treatment and in which the services of at least one physician or dentist are provided and does not include overnight care facilities.

**Commission.** The Churubusco Advisory Plan Commission.

**Community Center.** A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

**Condominium.** Real estate lawfully subjected to IC 32-1-6 (the Horizontal Property Law) by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

**Congregate Housing.** A residential facility for three (3) or more persons within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other accessory services, such as transportation for routine social and medical appointments and counseling

**County.** Whitley County, Indiana.

**Cul-de-sac.** A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

**Detached Building.** A building that has no structural connection with another building.

**Development Plan.** (See Chapter 9.)

**Developmental Disabilities Residential Facilities:** Facilities which are permitted in any district where dwellings are permitted, provided that the licensing and regulation of such facilities shall be accomplished through the Developmental Disabilities Residential Facilities Council of the State of Indiana, in accordance with the requirements of I.C. 16-10-2.1 and I.C. 16-31.1.

**Dormitory.** A building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or other similar use.

**Drive-In (Drive-Throughs).** An establishment selling foods, frozen desserts, or beverages to consumers, the establishment being designed, intended or used for the consumption of such item on the premises outside of the building in which they were prepared.

**Drives, Private.** Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they interact with public streets within public rights-of-way.

**Dwelling.** A building or part of a building that is used primarily as a place of abode, but not including a hotel, motel, lodging house, boarding house, or tourist home.

**Dwelling Unit.** A dwelling or part of a dwelling used by one family as a place of abode.

**Easement.** An authorization grant made by a property owner for use, by another entity, of any designated part of his property for a clearly specified purpose and officially recorded.

**Executive Committee.** A panel established by the Plan Commission to provide technical services to the Plan Commission in the administration of this Ordinance.

**Family.** One or more persons sharing meals and living as a single housekeeping unit.

**Farm.** An area used for agricultural operations, including truck gardening, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry. (See Agricultural District and Aquaculture.)

**Flood Hazard Areas.** Those flood plains which have not been adequately protected from flooding caused by the regulatory flood, and are shown on the zoning map and/or on the Flood Hazard or Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Natural Resources Commission.

**Flood Plain.** The area adjoining the river or stream which has been or may hereafter be covered by flood water from the Regulatory Flood.

**Flood Protection Grade.** The elevation of the lowest floor of a building, including the basement, which shall be two feet above elevation of the regulatory flood.

**Floodway.** See Regulatory Floodway.

**Floodway Fringe.** That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

**Foundation.** The supporting member of a wall or structure.

**Front Line.** With respect to a building, means the foundation line that is nearest the front lot line.

**Front Lot Line.**

1. For an interior or through lot, means the line marking the boundary between the lot and the abutting street or a lake or watercourse; and
2. For a corner lot, means the line marking the boundary between the lot and the shorter of the two abutting street segments.

except as deed restrictions specify otherwise.

**Front Yard.** The horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The front yard of a corner lot shall be that yard abutting the street upon which the lot has its least frontage, except as deed restrictions specify otherwise.

**Grade.** See Lot Ground Level.

**Group Home.** A single self-contained home established and operated by the county department of welfare, licensed private child placement agency or licensed incorporated

group established for the purpose of receiving and caring for up to eight individuals who are attended by house "parents." (Also see Congregate Housing.)

**Halfway House.** A licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such placement is pursuant to any court of competent jurisdiction and/or the State Department of Correction.

**Hardship.** A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standard of this Ordinance; any results of land division requiring variance from the development standards of this Ordinance in order to render that site buildable.

**Hazardous Substances.** Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

**Height.** With respect to a building, means the vertical distance from the lot ground level to the highest point, for a flat roof; to the deck line, for a mansard roof; and to the mean height between eaves and ridges for a gable, hip, or gambrel roof.

**Home Occupation.** A commercial or professional activity, regardless of whether engaged in for profit, conducted by one or more residents in his, her, or their dwelling, or structure accessory thereto, is clearly incidental and secondary to the use of the principal structure for dwelling purposes, and located within a residentially or agriculturally zoned district. See Chapter 12 for other performance standards.

**Improvement Location Permit.** A document issued by this Ordinance permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land.

**Industrial Use.** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which some operations, other than transportation, are performed in open area.

**Light Industrial Use.** Manufacturing, processing, extraction, heavy repairing, disposal of equipment, raw materials, manufactured products or wastes, in which all operations, other than transportation, are performed entirely within enclosed buildings.

**Heavy Industrial Use.** Manufacturing, processing, heavy repair, dismantling, storage or disposing of raw materials, manufactured products, or wastes which are not injurious to the health or safety of humans or animals, or injurious to vegetation, and which are not considered a nuisance.

**Interior Landscape Plot.** A plot of land inside the exterior perimeter of the parking and loading area which is raised and curbed for landscaping treatments in accordance with Section 10.04.

**Interior Lot.** A lot other than a corner lot or a through lot.

**Interested Parties.** Those parties who are owners of properties adjoining or adjacent to the property under consideration.

**Junk Yard.** A parcel of land on which waste or discarded used property other than organic matter, including but not limited to automobiles, farm implements and trucks, is accumulated and is or may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard.

**Landfill.** A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

**Lodging House.** A building, not available to transients, in which lodgings are regularly provided for compensation for at least three persons in addition to the owner occupant or lesser.

**Lot.** A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

**Lot, Corner.** A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees: A lot with streets abutting more than two (2) sides shall also be a corner lot.

**Lot Coverage.** The percentage of the lot area that is represented by the building area.

**Lot Ground Level.**

1. For a building having walls abutting (that is, generally parallel to and not more than five feet from) one street only, means the elevation of the sidewalk at the center of the wall abutting the street,
2. For a building having walls on more than one street, means the average of the elevations of the sidewalks at the center of all walls that face streets; and
3. For a building having no wall abutting a street, means the average level of the ground adjacent to the exterior walls of the building.

**Lot Width.** The distance between the side lot lines as measured on the building line.

**Maneuvering Aisle.** A maneuvering space which services two or more parking spaces, such as the area between two rows of parking spaces and/or the driveway leading to those spaces.

**Maneuvering Space.** An open space in a parking area which: 1) is immediately adjacent to a parking space; 2) is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but 3) is not for the parking or storage of motor vehicles.

**Manufactured Home.** A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 ( U S.O 5401 et seq.), and which also complies with the following specifications:

1. shall have been constructed after January 1, 1981, and must exceed nine hundred fifty (950) square feet of occupied space per I.C. 36-7-4(d).
2. is attached to a permanent foundation of masonry construction and has a permanent perimeter enclosure constructed in accordance with the One and Two Family Dwelling Code;
3. has wheels, axles and towing chassis removed;
4. has a pitched roof with a minimum rise of 2/12; and,
5. consists of two (2) or more sections which, when joined, have a minimum dimension of 20' x 47.5' in length or width enclosing occupied space

**Mineral Extraction.** (1) mining or quarrying; and (2) removal of earth materials.

**Mobile Home.** Any vehicle without motive power designed by the manufacturer, or maker, with hitch and undercarriage to permit attachment of axles and wheels, and so designed, to permit its being used as a conveyance upon public streets and highways so

designed, constructed or reconstructed as will permit the vehicle to be used as a single-family dwelling and not qualifying under the definition of manufactured home.

**Nonconforming Use.** A building, structure or use of land existing at the time of enactment of this ordinance, which does not conform to the regulations of the district in which it is situated

**Nursing Home.** Included in Congregate Housing.

**Occupied Space.** the total area of earth horizontally covered by the structure, excluding garages, patios and porches and other accessory structures.

**One and Two Family Dwelling Code, Indiana.** The nationally recognized model building code adopted by the Indiana Department of Fire Prevention and Building Safety as mandated by Public Law 360, Act of 1971, and, which includes those supplements and amendments promulgated by this agency.

**Open Use.** The use of a lot without a building, or a use for which a building with a floor area no larger than five percent of the lot area is only incidental.

**Parking Area.** A group of parking spaces, exclusive of any part of a street or alley, designed or used for the temporary parking of motor vehicles.

**Parking Garage.** A garage, where parking but not repairs are available to the public.

**Parking Space** An open space exclusive of maneuvering aisle and driveway for the parking of a motor vehicle.

**Performance Guarantee.** A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed. in compliance with the Ordinance, regulations, and the approved plans and specifications of a development.

**Permanent Foundation.** A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

**Permanent Perimeter Enclosure.** A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground, except for necessary openings, constructed in accordance with the One and Two Family Dwelling Code.

**Person.** A corporation, firm, partnership, association, organization, unit of government, or any other group or entity that acts as a unit, as well as a natural person.

**Plat.** A map indicating the subdivision, or resubdivision of land, filed, or intended to be filed, for record with the County Recorder.

**Principal Building.** A building in which the principal use of the lot or parcel on which it is located is conducted. Standards recognized by the Indiana Department of Fire Prevention and Building Safety shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

**Private Garage.** A garage whose principal use is to house motor vehicles for the accommodation of related dwelling units or related business establishments.

**Private School.** A school other than a public school.

**Private Camp.** An area of land used or designed to be used to accommodate groups or organized camping parties, including cabins, tents, food service and recreational facilities.

**Professional Office.** An office used by members of a recognized profession including but not limited to architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons, or pharmacists, and Realtors or insurance agents and brokers.

**Public Improvement.** Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. (All such improvements shall be properly bonded.)

**Rear Yard.** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

**Recreational Vehicle.** A portable vehicular structure designed as a temporary dwelling for travel vacation uses which:

1. is identified on the unit by the manufacturer as a travel trailer or a motor home; and
  2. of a size that is street legal;
- or:
1. is a structure mounted on an automobile or truck; and
  2. is designed to be used for sleeping and human habitation.

Recreational Vehicles are not residences for the purposes of this Ordinance.

**Regulatory Flood.** That flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.

**Regulatory Floodway.** The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

**Residential District.** Those districts, R-1, R-2, and R-3 as described under Chapter 5, Residential Districts.

**Rooming House.** (See Boarding House.)

**Scrap Metal Yard.** A general industrial use established independent, or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvage metal pipes, wires, beams, angles, rods, machinery, parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or for sale and shipment and use in other industrial or business activities including junk yards, dumps, or automobile graveyards

The storage, dealing in or the permitting of the accumulation of significant quantities of combustible, organic or nonmetal scrap materials such as wood, paper, rags, garbage, bones and shattered glass on the premises of such an establishment will disqualify it from being classified as a scrap metal yard, and the same will be classified as either a junk yard, a sanitary fill or refuse dump depending on the content of the accumulated matter.

**Screening.** (See Buffer Area.)

**Setback.** A line parallel to and equidistant from the relevant lot line (front, back, side) between which no building may be erected as prescribed in this Ordinance

**Side Lot Line.** Any lines separating two lots other than front or rear lot lines.

**Side Yard.** The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building and open lattice-enclosed fire escape, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space.

**Sign.** Any identification, description, illustration or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise or any emblem, painting banner, pennant or placard designed to advertise, identify or convey information, with the exception of window displays and national flags. For the purpose of removal, signs shall also include all sign structures. Not included are decorative devices or emblems as may be displayed on a residential mailbox.

For the purposes of this Ordinance, this definition shall include those signs painted directly upon a building or other structure. A visual device or structure used for advertising, display or publicity purposes. Definitions under Signs apply only to signs. See Chapter 11 for more information.

**Abandoned Sign:** A sign which no longer correctly directs or exhorts any person, advertises a bona fide business, leaser, owner, project or activity conducted or product available on the premises where such sign is displayed.

**Animated Signs:** Any sign which includes action or motion. For purposes of this Ordinance, this term does not refer to flashing or changing, all of which are separately defined.

**Banner:** A sign made of fabric, plastic, paper or other light pliable material, not enclosed in a rigid frame and characteristically suspended along or across a public street.

**Building Face of Wall:** All window and wall area of a building in one plane or elevation.

**Canopy:** Any structure attached to a building at the inner end and supported on the other end, or a free-standing structure, with one or more supports, meant to provide shelter from weather elements, onto which signs may be affixed or incorporated.

**Changeable Copy Sign (Manual):** A sign on which copy is changed manually in the field, i.e., reader boards with changeable letters or changeable pictorial panels.

**Changing Signs (Automatic):** A sign such as an electronically or electrically controlled public service time, temperature and date sign, message center or reader board, where different copy changes are shown on the same lamp bank.

**Church Bulletin Board:** A sign attached to the exterior of a Church or located elsewhere on Church premises and used to indicate the services and/or other activities of the Church, and including the Church name, if desired.

**Copy:** The wording or graphics on a sign surface.

**Erect:** To build, construct, re-construct, attach, hang, re-hang, alter, place, affix, enlarge, move or relocate and includes the painting and repainting of existing sign structures.

**Facade:** The front or main part of a building facing a street.

**Face of Sign:** The entire area of a sign on which copy could be placed. The area of a sign which is visible from one direction as projected on a plane.

**Flashing Sign:** Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. Automatic, changing signs such as public service time, temperature and date signs or electronically controlled message centers are not classed as "Flashing Signs".

**Gasoline and Oil Service Stations:** Any business which dispenses, or is designed to dispense gasoline and/or oil for use in motor vehicles or boats.

**Illegal Signs:** A sign which contravenes this Ordinance, or a non-conforming sign for which a permit required under a previous ordinance was not obtained.

**Logo:** A letter, character, or symbol used to represent a person, corporation or business enterprise.

**Premises:** An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

**Reader Board:** Any sign that has changeable or removable lettering.

**Right-of-Way (R.O.W.):** Shall be the actual road right-of-way or the proposed right-of-way as indicated on the Churubusco Comprehensive Plan and/or as set forth in the Churubusco's Subdivision Control Ordinance.

**Roof Line:** The highest point of the coping on a flat roof, false mansard, or parapet wall, the decline of a true mansard roof; the ridge line between the upper and lower slopes of a gambrel roof; or the mean height level between the eaves and ridge for a gable or hip roof.

**Seasonal or Special Occasion Temporary Signs:** A sign which is not permanent and is limited to a specific activity or in the celebration of holidays or other special events.

**Shopping Center:** A building containing four (4) or more shops, stores, and other places of business, and providing off-street parking facilities in common for all of the businesses and their customers.

**Show Window Sign:** Any temporary sign advertising sales or specials attached to or within three (3) feet of the glass surface of any fixed window (glazing) visible from a public right-of-way.

**Sign Area:** The area of the sign face. The "sign area" of a multi-faced sign is the sum of the sign areas of each face, including structural trim which can be seen from a single location on an adjacent street. If a sign is attached to a building or suspended in any manner whereby there is no apparent trim or confining border, the sign area shall be computed by drawing an imaginary straight line around a generally rectangular margin and measuring the area so encompassed upon a building or other structure

**Sign, Attached:** A sign erected or placed upon the wall of any building with the plane of the face parallel to the plane of the wall below the roof line.

**Sign, Commercial Directory:** A permanent pole sign designating the name of a commercial center and listing the various tenants of the center.

**Sign, Construction:** A temporary sign used during construction of new buildings or reconstruction of or additions to existing buildings, such as those identifying the project and denoting the owner, architect, engineer, contractor, and/or financing institutions of the project.

**Sign, Directional:** A sign which indicates a direction for vehicular or pedestrian traffic or other movement.

**Sign, Fluttering:** A sign which flutters and includes banners, flags, pennants, or other flexible material which moves with the wind or by some artificial means.

**Sign, Ground:** Any detached sign on the same lot or parcel as the use it advertises which has its bottom portion erected upon or supported by the ground, a ground planter box, or other supports.

**Sign, Hanging:** Any sign hanging entirely beneath a canopy, portico, or marquee.

**Sign, Illuminated:** Any sign which is illuminated by light sources mounted on or in the sign or at some other location.

**Sign, Memorial or Tablets:** The permanent part of a building which denotes the name of the building, date of erection, historical significance, dedication, or other similar information. Churubusco Zoning Ordinance

**Sign, Non-conforming:** A sign legally erected under the previously existing Ordinances of the Town, but which does not conform to the provisions of this Ordinance.

**Sign, Occupational and/or Identification:** An attached wall sign not larger than one (1) square foot in area identifying the name of a person occupying a building.

**Sign Permit:** A location improvement permit as discussed in the Legal Provision, Section 1.11.B.

**Sign, Political:** A temporary sign advocating or opposing any political proposition or candidate for public office.

**Sign, Pole:** Any detached sign located on the same lot or parcel as the use it advertises which is supported by one or more stationary poles no taller than thirty-five (35) feet above the mean grade line of the ground at its base provided that this shall not include a permitted Ground Sign as set forth.

**Sign, Project Identification:** A permanent ground sign identifying an apartment complex, condominium project, or mobile home development entry, name, and/or street names within the project.

**Sign, Projecting:** Any sign which projects more than twelve (12) inches beyond the plane of the wall on which the sign is erected or attached.

**Sign, Property Real Estate:** A sign pertaining only to the prospective rental, lease, or sale of the property upon which it is located. Real Estate signs shall be excluded from the definition of Pole Signs.

**Sign, Residential Construction Project:** Any temporary sign that provides direction to any residential development under construction, or promotes the residential development on the project site.

**Sign, Roof:** Any sign erected on a roof but excluding marquee and canopy signs and wall signs. The generally vertical plane of a mansard-type roof shall be interpreted as the same as a wall of a building.

**Sign, Structure:** The sign and all parts associated with its construction.

**Sign, Subdivision Identification:** A permanent ground sign identifying a subdivision entry, subdivision name, and/or street names within the subdivision.

**Sign, Supports:** All structures by which a sign is held up, including, for example, poles, braces, guys, and anchors.

**Sign, Temporary:** Any sign intended for a limited or intermittent period of display.

**Sign, Window Temporary:** A temporary sign affixed to the inside of an exterior window or glass door.

**Special Displays:** Signs not exceeding thirty-two (32) square feet, used for holidays, public demonstrations, or promotion of civil welfare or charitable purposes.

**Standard Outdoor Advertising Structure and/or Billboard:** Any sign intended to attract general public interest concerning a commercial enterprise, product, service, industry, or other activity not conducted, sold or offered on the premises upon which the sign is erected. This includes billboards, detached pole signs on separate parcels, wall signs and signs otherwise attached to buildings and/or supported by uprights or braces on the ground. Real estate signs and political signs are excluded from this definition.

**Temporary Sign:** A sign which is not permanent and is allowed for a specific time period.

**Traffic Directional Sign:** Any sign which aids the flow of traffic.

**Site Plan.** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

**Special Exception.** The authorization of a building, structure, or use that is not designed as a permitted use within a district, but if specifically listed may be permitted if it meets special conditions, and upon application, is specifically authorized by the Churubusco Board of Zoning Appeals.

**Street.** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform.

**Expressways.** A street which is intended to have limited access on interregional routes. They are designed exclusively for unrestricted movement, have limited private access, and intersect only with selected arterial highways or major streets by means of interchanges whenever possible.

**Arterial.** A street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the Town or County, and/or as a route for traffic between communities; a major intra or intercity thoroughfare as designed by and shown on the Thoroughfare Plan.

**Collector Street.** A street intended to move traffic from local streets to arterials as designated by and shown on the Thoroughfare Plan. (A collector street serves neighborhood or large subdivision and shall if at all possible be designed so that no residential properties face onto it and no driveway access to it is permitted except if the property is to be in multi-family use for three (3) or more dwelling units.)

**Local Street.** A street intended to provide access to other streets from individual properties and to provide right-of way beneath it for sewer, water, and storm drainage pipes.

**Structural Change.** A substantial change in a supporting member of a building, such as a bearing wall or partition column, beam, or girder, or in an exterior wall or the roof.

**Structure.** Anything constructed or erected that requires location on or in the ground or attachments to something having a location on or in the ground.

**Subdivision.** 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.

**Through Lot.** A lot fronting on two parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

**Tourist Home.** See Bed and Breakfast. Homestay.

**Trade or Business School.** A secondary or higher education facility teaching usable skills that prepare students for jobs in a trade, business or vocation.

**Use.** The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment

**Variance.** A specific approval granted by the Board of Zoning Appeals in the manner prescribed by this Ordinance, to deviate from the development standards (such as height, bulk, area) where owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship to the applicant.

**Yard.** A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this Ordinance.