

152. DEFINITIONS AND RULES OF INTERPRETATION

152.01. WORD USAGE

- A. For the purpose of these regulations, certain numbers, abbreviations, terms, words, and phrases used herein shall be used, interpreted, and defined as set forth in this Section.
- B. Whenever any words and phrases used herein are defined in the state laws regulating the creation and function of various planning agencies, such definition shall apply to such words and phrases used herein, except when the context requires otherwise.
- C. For the purpose of these regulations, certain words and phrases used herein shall be interpreted as follows:
 - 1. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity.
 - 2. The masculine includes the feminine.
 - 3. The present tense includes the past and future tense; the singular number includes the plural.
 - 4. The word “shall” is a mandatory requirement; the word “may” is a permissive requirement; and the word “should” is a preferred requirement.
 - 5. The words “used” or “occupied” include the words “intended, arranged, or designed to be used or occupied.”
 - 6. The word “lot” includes the words “plot, parcel, and tract.”
- D. All other words not defined shall be defined according to any recent edition of Webster’s New Collegiate Dictionary (most recent edition).

152.02. DEFINITIONS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandonment - The complete discontinuance of a land use or a use of a structure, or actions manifesting an owner’s intent to abandon.

Abutting - Bordering with a common boundary line, or being separated from such common border by a right-of-way or easement.

Accessory Use or Structure - A building or use subordinate to another structure or use located on the same lot which does not change or alter the character of the premises and which is not used for human occupancy. Such uses or structures may include public utility installations, electric distribution and secondary power lines, gas, water and sewer lines, their supports and poles, guy wires, small transformers, wire or cable, incidental equipment, and public telephone booths.

Acre - A unit of land measuring 43,560 square feet.

Adult Use - A use where activities distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specifies anatomical areas exceeds fifty percent (50%) of the use's activities.

Agriculture - The art, science and business of cultivating the soil, producing crops, and raising livestock, including the preparation of these products for use and distribution. Agriculture includes but is not limited to farming, horticulture, forestry, dairying, and sugar making.

Alley - A permanent public right-of-way providing a secondary means of access to abutting lands.

Alteration - Any change in design, material, size, shape, or character of a structure.

Amendment - Any addition to, deletion from, or change in this Unified development Code, including text and/or map.

Antenna - Any device designed to transmit or receive wave signals to or from any source whatsoever.

Appeal - A request to review a decision or interpretation of the Planning Director or other official or body relative to the administration of this Unified Development Code.

Applicant - The owner of land for which a development review procedure is requested, or the owner's authorized representative.

Architectural Detail - Any relief, parapet, column, change of building material, or door or window opening on any structure.

As-Built Plans - Drawings made after the installation of public improvements on a site, identifying the exact location and construction of those improvements.

Automobile Sales - The display, sale, or rental of new or used automobiles or trailers, where no repair work is done except minor incidental repair of automobiles or trailers to be displayed, sold, or rented on the premises.

Automobile Repair - The repair of motor vehicles including the rebuilding or reconditioning of engines, collision services such as body or frame straightening, and the painting of motor vehicles. Automobile repair may also include automobile service, as defined below.

Automobile Service - The general maintenance of motor vehicles including lubrication and the installation of parts and accessories, but not including automobile repair, as defined above.

Automobile Fuel Station - The retail sale of motor vehicle fuels, including the sale of motor oils and automobile accessories.

Awning - A roof-like covering of cloth or other non-structural material that either is permanently extended from a building or can be raised from or retracted to the building wall when desired. See also Canopy.

Banner - A sign of light-weight, flexible, and temporary material such as cloth or plastic which is attached to a building, structure, or other support in such a manner as to allow movement caused by the atmosphere.

Bar, Tavern, or Cocktail Lounge - An establishment whose primary use is the retail sale of alcoholic beverages for consumption on the premises, including the performance of live entertainment, but not including adult uses.

Basement - A story, wholly or partly underground, which unless subdivided into rooms and used for tenant purposes, shall not be included as a story for the purposes of height measurement.

Bed and Breakfast Establishment - An owner-occupied dwelling unit providing overnight accommodations and breakfast to the public for compensation for at least 10 days in a 12-month period.

Block - A tract of land bounded by streets, or by streets and railroad rights-of-way, waterways, or other barriers.

Block Frontage - The front of all property lying on one side of a street and between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, waterway, or other barrier.

Board - The Town Board of Zoning Appeals of the Town of Pendleton.

Boarding House - A building, not open to transients, in which lodging and meals are provided for compensation for at least three but no more than 12 individuals per day.

Bond - Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Town Council and Town Attorney.

Bond, Maintenance - A bond to ensure the maintenance of public improvements for a specified time period.

Bond, Performance - A bond to ensure the construction of public improvements in compliance with the requirements of this Unified Development Code and any applicable requirements of the County or State.

Building - A structure having a roof supported by columns or walls, for the shelter, support, enclosure, or protection of persons, animals, chattels, or other property. When separated by party walls without opening, each portion of such a building shall be considered a separate structure.

Building, Height Of - The vertical distance measured from the lot ground level to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

Building, Detached - A building with no structural connection to another building.

Building, Front Line Of - The line of the face of the building nearest the front lot line.

Building, Principal - A building in which is conducted the main or principal use of the lot on which the building is situated. Where a substantial part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

Building Area - The maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces, unenclosed porches not exceeding one story in height, or architectural appurtenances projecting not more than two feet.

Building Line, Front or Building Setback Line, Front - The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the front lot line.

Building Line, Side or Building Setback Line, Side - The line nearest the side of and across a lot establishing the minimum open space to be provided between the side of a building or structure and the side lot line. Required Side Building Lines shall apply to both sides of a lot.

Building Line, Rear or Building Setback Line, Rear - The line nearest the rear of and across a lot establishing the minimum open space to be provided between the rear of a building or structure and the rear lot line.

Business - Engaging in the purchase, sale, barter or exchange of goods, wares, merchandise, or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

Camp, Public - Any area or tract of land used or designed to accommodate two or more camping parties, including cabins, tents, or other camping outfits.

Canopy - A roof-like structure projecting from a wall and supported in whole or in part by vertical supports from the ground, and erected primarily to provide shelter from the weather.

Ceiling - The lowest surface of the partition between the floors of a building.

Cemetery - Land used for interment dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Certificate Of Occupancy - A certificate signed by the Planning Director stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of these land use regulations.

Child Care Center—A place where at least seventeen (17) children receive child care from a provider while unattended by a guardian, for regular compensation and, and for a period of at least four (4), but no more than twenty-four (24), consecutive hours in each of ten (10) consecutive days per year, excluding intervening weekends and holidays.

Child Care Home - A dwelling unit where at least six (6) children (excepting those for whom the provider is a guardian) receives child care from a provider while unattended by a guardian, for regular compensation and, and for a period of at least four (4), but no more than twenty-four (24), consecutive hours in each of ten (10) consecutive days per year, excluding intervening weekends and holidays. The term “Child Care Home” shall refer to Class I Child Care Homes and Class II Child Care Homes.

Club - Buildings and facilities owned or operated by a person for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Commercial Farm Enterprise - An operation or use inherent to or closely associated with a farm or agriculture, such as the purchase, sale or distribution of livestock or farm or agricultural products or products essential to farm operation; but not including industrial grain

elevators, industrial mills, slaughterhouse, commercial hatcheries, poultry processing plants, the manufacture of commercial fertilizers and similar enterprises which are of an industrial nature.

Commission - The Town Plan Commission of the Town of Pendleton.

Comprehensive Plan - The complete comprehensive plan, including the land use plan, thoroughfare plan and any of its other parts, which is intended for the development of the town and adopted in accordance with Indiana Code, as amended.

Conditional Use - A use permitted within a district other than a use permitted "by right", and requiring approval of the Board of Zoning Appeals because of its unusual nature.

Condominium - The individual ownership of a dwelling unit within an estate of real property, together with an interest in the common land and building areas and the underlying land.

Council - The Town Council of the Town of Pendleton.

Cul-De-Sac - A residential street having one end open to traffic and being permanently terminated by a vehicle turn-around (a court or dead-end street).

Decibel - A unit of measurement of the intensity of loudness of sound. Sound level meters are used to measure such intensities and are calibrated in decibels.

Demolition - The complete or substantial removal or destruction of any structure or its substantial deterioration due to neglect.

Density - A unit of measurement; the number of dwelling units per acre of land to be developed, including public rights-of-way

Development - Any man-made change to improved or unimproved real estate including but not limited to:

1. Construction, reconstruction, or placement of a building or any addition to a building valued at more than \$1,000;
2. Installing a manufactured home on a site, preparing a site for a manufactured home or installing a travel trailer on a site for more than 180 days;
3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
4. Construction of flood control structures such as levees, dikes, channel improvement, etc.;
5. Mining, dredging, filling, grading, excavation, or drilling operations;
6. Construction and/or reconstruction of bridges or culverts;
7. Storage of materials; or
8. Any other activity that might change the direction, height, or velocity of flood or surface waters.
9. Does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation or the construction of permanent buildings.

Development Plan - A drawing, including a legal or site description, of the real estate involved, which shows the location and size of the following, both existing and proposed: All buildings, structures, and yards; location and dimension of building lines and easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining streets, service facilities, and other improvements such as planting areas.

District - A Section of the territory within the jurisdiction of the Town Plan Commission for which uniform regulations governing the use, height, area, size, and intensity of use of buildings and land, and open spaces about buildings, are established.

Drive-in or Drive-Through Establishment - An establishment which is designed to provide either wholly or in part, service to customers while in their automobiles parked upon or driven through the premises.

Dwelling - A building or portion thereof, used primarily as a place of abode for one or more human beings, but not including hotels or motels, lodging or boarding houses, or tourist homes.

Dwelling Unit - A dwelling or a portion of a dwelling used for one family for cooking, living, and sleeping purposes.

Dwelling, single-family detached - A detached building designed for or used as one dwelling unit.

Dwelling, two-family - A building designed for or used as two dwelling unit.

Dwelling, multi-family - A building designed for or used as three or more dwelling units.

Easement - A grant by the property owner of the use of a strip of land by a person or persons for specified purposes.

Educational Institution - Public or parochial pre-primary, primary, grade, junior-high, high, preparatory school or academy; junior college, college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization.

Encroachment - The extension of a structure or part of a structure, such as an eave, fireplace, porch, or patio; into a setback.

Enforcement Authority - The Planning Director of the town as prescribed by Chapters 152 and 154 in this code.

Existing Manufactured Home Park Or Subdivision - A manufactured home park or subdivision for which facilities have been constructed for servicing the lots on which the manufactured homes are affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Expansion To An Existing Manufactured Home Park Or Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FHBM - Flood Hazard Boundary Map.

FIRM - Flood Insurance Rate Map.

Family - One or more persons occupying a building and living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nurses home, or fraternity or sorority house.

Farm - A tract of land comprising an area which is devoted to agricultural operations, such as forestry; the growing of crops; pasturage; the production of livestock and poultry; the growing of trees, shrubs, and plants; and other recognized agricultural pursuits and including accessory buildings essential to the operation. Accessory buildings include barns; equipment and animal sheds; farm residences for the owner, operator, or farm assistants; roadside sales structure for the sale of products of the farm; and signs displaying subject matter directly related to the name or the products of the particular farm; but not including industrial or commercial operations or structures.

Filling Station - See Automotive Fuel Station.

Flash Point - The lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will burn momentarily using the closed cup method.

Flood - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Floodplain - The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.

Flood Protection Grade (FPG) - The elevation of the regulatory flood plus two feet at any given location in the SFHA.

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 the peak flood flow of the regulatory flood of any river or stream.

Floodway Fringe - Those portions of the flood hazard areas lying outside the floodway.

Floor Area, Ground - The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at a ground floor level exclusive of open porches, breeze-ways, terraces, garages, and exterior stairways.

Floor Area, Gross - The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior walls. It includes the total of all space on all floors of a building, except for porches, garages, or space in a basement or cellar when said basement or cellar space is used for storage or other such incidental uses. The gross floor area is generally applied in residential use.

Floor Area, Net - The total area, computed on a horizontal plane, used for a particular business category; exclusive of entrances, hallways, stairs and other accessory areas used for ingress or egress.

Floor Area (for the Purpose of Parking Calculation) - Gross floor area, for the purpose of parking calculation, shall mean the total horizontal areas of the one or several floors of the building or portion thereof devoted to the use, from the exterior face of exterior walls, but excluding any space where the floor to ceiling height is less than (6) feet.

Free Burning - A rate of combustion described by a material which burns actively and easily supports combustion.

Frontage, Block (see also, Block Face) - All the property on one side of a street between two intersecting streets, either crossing or terminating, measured along the line of the street, or if the street is a dead-end, then all the property abutting on one side between an intersecting street and the dead-end of the street.

Frontage, Building - The width of a building as determined by projecting lines perpendicular to the street right-of-way.

Garage, Private - An accessory building with capacity for not more than three motor vehicles per family, not more than one of which may be a commercial vehicle of not more than three tons capacity. A garage designed to house one or two motor vehicles for each family housed in a multi-family dwelling shall be classified as a private garage.

Grade and Lot Ground Level - For buildings having walls adjoining one street only: the elevation of the sidewalk at the center of the wall adjoining the street. For buildings having walls adjoining more than one street: the average of the elevation of the sidewalk at the center of all walls adjoining the streets. For buildings having no wall adjoining the street: the average level of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street.

Historic Overlay District - A concentration of buildings, structures, objects, spaces or sites or the boundaries of a property containing a single building, structure, object, or site and in either case which has been designated by Code by the Town Council.

Home Occupation - An occupation traditionally accepted when carried on in the home; if such use is conducted entirely within a dwelling and participated in solely by members of the family residing on the premises, and if not more than 25 percent of the gross floor area of the dwelling is devoted to such use and the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change its character; and no article or service is sold or offered for sale on the premises except such as is produced by such occupation and if there is no artificial lighting or any display visible from the exterior indicating that the dwelling is being utilized in part for any purpose other than that of a dwelling

Hospital - An institution licensed by the State Department of Health and providing health services primarily for inpatient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the facility, and operated by, or with treatment given under the direct supervision of a licensed physician. Hospitals include general, mental chronic disease and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, and cancer.

Hotel - A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

Improvement - Any alteration to the land or other physical constructions associated with subdivision and building site development.

Improvement Location Permit - A permit signed by the Planning Director stating that a proposed improvement complies with the provisions of these zoning regulations and any other applicable code Sections.

Industrial Park - A single structure or group of structures for industrial operations forming a comprehensive arrangement of buildings, grounds, and access ways planned in accordance with harmonious principles of architectural and landscape architectural design, and industrial management.

Intense Burning - A rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly.

Junkyard - Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or assorted, including but not limited to, used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick, and similar property except animal matter; and used motor vehicles, machinery, or equipment which is used, owned, or possessed for the purpose of wrecking or salvaging parts therefrom.

Jurisdiction Of The Commission - The territory for planning and zoning within the jurisdiction of the Town Plan Commission, indicated on the zoning jurisdiction map which is incorporated herein by reference.

Kennel - Any lot on which four or more dogs, or small animals, at least four months of age are kept.

Loading And Unloading Berths - The off-street area required for the receipt or distribution by vehicles of material or merchandise.

Lodging House - A building where lodging only is provided for compensation to at least three, but not more than twelve persons, which is not open to transients.

Lot - A parcel, tract, or area of land accessible by means of a street, and for residential uses, abutting upon a street for at least 50 percent of the lot width prescribed by this Section for the district in which the lot is located. A lot may be a single parcel separately described in a deed or survey which is recorded in the office of the County Recorder, or may include a parcel contained in a plat or subdivision of land which is recorded in the Office of the County Recorder, or may include parts of, or a combination of such parcels when adjacent to one another and used as one. No part of a lot within the limits of an existing or proposed street shall be included when determining lot area and boundary lines.

Lot, Corner - A lot at the junction of and abutting two or more intersecting streets.

Lot Coverage - The percentage of the lot area covered by the building area, paved parking and drives.

Lot, Depth Of - The mean horizontal distance between the front lot line and the rear lot line of a lot, measured in the general direction of the side lot line.

Lot, Interior - A lot other than a corner lot or through lot.

Lot Line, Front - In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot a line separating the narrowest frontage of the lot from the street, except in cases where deed restrictions in effect specify another street right-of-way line as the front lot line.

Lot Line, Rear - A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side - Any lot boundary line that is not a front lot line or a rear lot line.

Lot of Record - A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder, or a parcel of land, the deed to which has been recorded in the office of the County Recorder.

Lot, Reversed Interior - An interior lot, the front lot line of which is formed by a street, which street also forms the side lot line of an abutting corner lot. The corner lot is deemed abutting even though separated from the interior lot line by an alley.

Lot, Through - A lot having frontage on two parallel or approximately parallel streets.

Lot, Width - The dimension of a lot, measured between side lot lines on the front building line.

Lowest Floor - The lowest of the following:

1. The basement floor;
2. The garage floor, if the garage is the lowest level of the building;
3. The first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
4. The floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters, unless:
 - a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood water through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of all such openings shall be no higher than one foot above the enclosed area's floor.
 - b. Such enclosed space shall be usable for nonresidential purpose and building access.

Maintenance Bond - See Bond, Maintenance.

Manufactured Home - A structure, transportable in one or more Sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "MANUFACTURED HOME" does not include a "RECREATIONAL VEHICLE."

Mobile Home - Any vehicle either self-propelled or propelled by means of being attached to a motor vehicle, which may be used as a place of abode or sleeping place by one or more persons, and which has no foundation other than the wheels required for its movement from one place to another.

Mobile Home Park - An area of land upon which two or more mobile homes are harbored for the purpose of being occupied either free of charge or in consideration of the payment of

rental for the mobile home or the site upon which it rests, and within which area a mobile home may be supported either by its wheels or by a foundation of any sort.

Moderate Burning - A rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

Monument - Any permanent marker either of stone, concrete, galvanized iron pipe, or iron or steel rods, used to identify the boundary lines of any tract, parcel, lot, or street lines.

Motel - A building or buildings designed for providing overnight accommodations, containing bedroom, bathroom and closet space, and each unit having convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients.

New Manufactured Home Park Or Subdivision - A manufactured home park or subdivision for which the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Non-Conforming Lot, Use or Structure - Any lot, use, or structure legally existing as of the effective date of this Code, that is not in compliance with this Code or any subsequent amendments.

Nursing Home - A facility licensed by the State Board of Health, which provides nursing services on a continuing basis; admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; provides for licensed physicians services or supervision; and maintains medical records. Such facilities may also provide other and similar medical or health services, provided that no occupant requires physical restraint within the facility. Examples of nursing homes may include convalescent homes, maternity homes, rest homes, homes for the aged, and the like.

Nursing Home Conversions - A dwelling which is converted for the use of a nursing home and licensed by the State Board of Health.

Octave Band - A narrow range of sound frequencies which classify sounds according to pitch. In the octave band analyzer the audible sound spectrum is divided into eight octave bands.

Octave Band Analyzer - An electrical device used with the sound level meter that sorts a complex noise or sound into the various octave bands.

Owner - Any person, firms, association, syndicate, partnership, corporation, or any other legal entity having legal title to or sufficient proprietary interest in the land under these regulations.

Parking Area, Public - An open area, other than a street or alley designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers.

Parking Space - A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle.

Particulate Matter - Finely divided liquid or solid material which is discharged and carried along in the air, except water droplets, or steam.

Performance Bond - See Bond, Performance.

Person - A natural person, or a corporation, firm, partnership, association, organization, or any other group acting as a unit.

Place - An open, unoccupied, officially designated space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

Planning Department - Includes employees of the Planning Department of the Town of Pendleton, and any work/study aids or interns and employees of any other Town or County Department which may provide assistance to the Planning Director under his supervision and subject to the authority of the Planning Director on matters of staff discretion.

Plat - A map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.

Premises - A lot or plot including buildings thereon, if any.

Private School - Private primary, grade, high, or preparatory school or academy.

Professional Office - Office of a member or members of a recognized profession as defined by the United States Bureau of the Census.

Professional Office Center - An architectural and functional grouping of professional offices and appropriate associated and accessory uses which is the central feature of a site plan composed of building area, parking area, landscaped reservation and plantation, and other land features appropriate for its use as a professional office enterprise, designed to serve residential neighborhoods.

Professional Office in Residence - A use in a residence where business or professional activities are conducted and/or business or professional services are made available to the public.

Public Utility Installations - The erection, construction, alteration, or maintenance by public utilities, municipal departments, commissions or common carriers of underground, surface or overhead gas, oil, electrical, steam, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utility, municipal departments, commissions, or common carriers, for the public health, safety, or general welfare.

Recreation Vehicle - A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling, but as temporary living quarters or for recreational camping, travel, or seasonal use.

Regulatory Flood - The flood having a 1 percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The regulatory flood elevation at any location

is as defined in Section 154.04. “REGULATORY FLOOD” is also known by the term “BASE FLOOD.”

Replat - A plat or subdivision whose site has heretofore been platted or subdivided with lots or parcels of land. A replat may include all or any part of a previous subdivision or plat.

Right-Of-Way - A strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. Rights-of-way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

Right-Of-Way Width - The distance between properties adjacent to the right-of-way as measured at right angles to the center line of the right-of-way.

Ringelmann Number - The number of the area on the Ringelmann Chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann Chart is described in the U.S. Bureau of Mines Information Circular 6888, as amended on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. 1 shall be considered no smoke, or Ringelmann 0.

Roadside Sales Stand - A structure used for the sale of agricultural products grown on the property on which the stand is located and is seasonal in nature.

Roof Line - Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette. For the purpose of sign regulations, when a building has more than one roof level, the roof or parapet shall be the one belonging to that portion of the building on which the sign is located.

Shopping Center - An architectural and functional grouping of retail stores, generally oriented around a supermarket or department store, and appropriate associated and accessory uses, which is the central feature of a site plan or development plan composed of building areas, parking areas, access streets, and circulatory ways for vehicles and pedestrians, landscape reservations and plantations, and other land features appropriate for its operation as a business enterprise, designed to serve residential neighborhoods or communities.

Sign - Any identification, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building or other outdoor surface or parcel of land, visible from a public right-of-way, and which directs attention to an object, product, place, activity, business, person, service or interest.

Sign Location - A lot, premise, building, wall or any place whatsoever upon which a sign is located.

Sign Permit - A permit signed by the Planning Director stating that a proposed sign has met with the provisions of this Code.

Sign, Advertising - A sign which directs attention to a business, product, activity or service conducted, sold or offered at a location other than that of the sign. Maximum area is sixty square feet.

Sign, Area Of - The entire area within a single continuous perimeter enclosing all elements of the sign which form an integral part of the sign and which are organized, related and composed to form a single unit. In the case of a sign with two visible surfaces, the sign area shall be the total area of one side of the sign.

Sign, Ground - A sign which is supported by one or more uprights or braces in the ground with a sign surface at one foot or less above the ground level and not exceeding five feet in height. Ground signs shall contain a landscaped area at the base equal to the sign area.

Sign, Identification - A sign whose copy is limited to the name and address of a building, institution, or person and to the activity or occupation being identified and which is located on the site where the building, institution, person or activity is located.

Sign, Illuminated - Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.

Sign, Pole - A sign which is supported by one or more uprights or braces in the ground with the sign surface located at a minimum height of ten feet above grade level, extended to a maximum height of not more than fifteen feet above grade level and having a maximum size of not more than 48 square feet.

Sign, Portable - Any sign whether on its own trailer, wheels, or otherwise, which is designed to be transported from one place to another.

Sign, Projecting - Any sign suspended from or supported by a building, and extending outward therefrom more than 18 inches.

Sign, Real Estate - A temporary sign which advertises the sale, rental or development of the premise upon which the sign is located.

Sign, Wall - A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than 12 inches at all points. Awnings with the name of a business qualify as a wall sign.

Slow Burning or Incombustible - Materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite, nor actively support combustion during an exposure for five minutes to a temperature of 1,200°F.

Smoke - A suspension of fine particles, in a gaseous plume, which obscure the transmission of light, but not including water droplets or steam.

Smoke Unit - The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed. The various products are then added together to give the total number of smoke units observed during the entire observation period.

Special Flood Hazard Area (SFHA) - Those lands within the jurisdiction of the town that are subject to inundation by the regulatory flood. The SFHAs of the town are generally identified as such on the Flood Insurance Rate Map of the town prepared by the Federal Emergency Management Agency and dated May 3, 1982. The SFHAs of those parts of unincorporated Madison County that are within the extraterritorial jurisdiction of the town that may be annexed into the town are generally identified as such on the Flood Hazard Boundary map prepared for Madison County by the Federal Emergency Management Agency and dated June 23, 1978.

Special School - Any school which has as its primary purpose the instruction, care, and rehabilitation of atypical or exceptional persons so that the usual statutory educational requirements expressly or implicitly do not apply.

Story - That portion of a building, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be the "STORY" .

Story, Half - That portion of a building under a sloping gable, hip, or gambrel roof, the wall plates on at least two opposite exterior walls of which are not more than three feet above the floor level of such half-story.

Street - A right-of-way, dedicated to the public use, which affords the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, place, or other appropriate name. A street may also be identified according to type of use, as follows:

1. **Arterial** - A street designated for large volumes of traffic movement. Certain arterial streets may be classed as limited access highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties. Arterial streets are divided into two categories: primary and secondary.
2. **Feeder** - A street planned to facilitate the collection of traffic from residential streets, and to provide circulation within neighborhood areas and convenient ways for traffic to reach arterial streets.
3. **Residential** - A street designated primarily to provide access to abutting properties, usually residential. Certain residential streets may be marginal access streets parallel to arterial streets, which provide access to abutting property and ways for traffic to reach access points on arterial streets.

Structure - Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground, including a building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days.

Structural Alteration - Any change in the supporting members of a building structure, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the exterior walls or the roof.

Subdivider - Any person engaged in developing or improving a tract of land which complies with the definition of a subdivision in this Section.

Subdivision - The division of any parcel of land, separately described in a deed on record in the office of the County Recorder, into two or more contiguous parcels, sites, or lots fronting on an existing street and each of which comprises less than five acres, for the purpose of immediate or future transfer of ownership; provided, that if a new street or streets are included to provide access to lots which are laid out for the purpose of immediate or future transfer of ownership, but which do not front on an existing street, such interior lots shall be considered as parts of the subdivision even though they exceed five acres in area.

Substantial Improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not include:

1. Improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements; or

2. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Property Interest - Any right in real property that may be affected in a substantial way by actions authorized by this subchapter, including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. The interest reflected by a deed, lease, license, mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien, or evidence of it is:

1. Recorded in the office of the County Recorder; or
2. The subject of written information that is received by the Planning Director and includes the name and address of the holder of the interest described.

Swimming Pool, Private - A swimming pool used only by the owner of the pool and guests as an accessory use at a private residence.

Thoroughfare Plan - The part of the Comprehensive Plan for the town, which includes a major street plan and sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets.

Townhouse - A building having three or more dwelling units arranged side by side, each occupying an exclusive vertical space without another dwelling unit above or below, and each of which has at least one exterior entrance.

Tourist Home - A building in which no more than five rooms are used to provide or offer overnight accommodations to transient guests for compensation.

Trade or Business School - Secretarial or business school or college when not publicly owned or conducted by or under the sponsorship of a religious, charitable, or nonprofit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting, or industrial or technical arts.

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

Variance - A modification of the specific requirements of these zoning regulations granted by the Board of Zoning Appeals in accordance with the terms of these zoning regulations for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

Vibration - Oscillatory motion transmitted through the ground.

Vision Clearance on Corner Lots - A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of three and 12 feet above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting street pavements, and the triangular space is determined by a diagonal line connecting two points measured 15 feet along each of the street property lines equidistant from the intersection of the property lines or the property lines extended, at the corner of the lot.

Yard - A space on the same lot with a principal building, open, unoccupied, and unobstructed by structures, except as otherwise provided in these zoning regulations.

Yard, Front - A yard extending across the full width of the lot unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar structures, the depth of which is the least distance between the front lot line and the front building line.

Yard, Rear - A yard extending across the full width of the lot between the rear of the principal building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than 30 percent of the required space, and steps, walks, terraces, driveways, lamp posts, and similar structures, the depth of which is the least distance between the rear lot line and the rear of such principal building.

Yard, Side - A yard between the principal building and the side lot line, extending from the front yard or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally at 90 degrees with the side lot line, from the nearest part of the principal building, except in the cases of irregular or pie-shaped lots when the width of the required side yard shall be an average of the width of the area between the side lot line and the principal building measured horizontally at 90 degrees with the side lot line.

Zoning Board - The Town Board of Zoning Appeals of the Town of Pendleton.

Zoning Map - A map entitled, "Pendleton, Indiana Zoning Map", as amended.

Zoning Section - The part of the Comprehensive Plan, now or hereafter adopted, which includes this Subdivision Code, the Zoning Code, and the zone map which divides the territory within the jurisdiction of the Plan Commission into districts, with regulations and requirements and procedures for the establishment of land use controls.

152.03. INTERFERENCE OR CONFLICT WITH OTHER PROVISIONS

Wherever the requirements of this Code conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standards, shall govern.

152.04. SEVERABILITY

Should any Section, subsection, paragraph, clause, word, or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

152.05. TRANSITION RULES

In determining the applicability of this Unified Development Code with respect to the previously applicable land use regulations, the following rules shall apply:

152.05.01 Existing Permitted Uses Rendered as Conditional Uses

When a lot is used for a purpose classified as a permitted use prior to the effective date of this Code, and such use is classified as a conditional use by this zoning code, such use shall be deemed a lawful conditional use for the purpose of this zoning Code.

152.05.02 Principal Uses Rendered Nonconforming

When a lot is used for a purpose which was a lawful use prior to the effective date of this Code, and this Code, or any amendment thereto, no longer classifies such use as either a permitted use or a conditional use in the district in which it is located, such use shall be deemed a legal nonconforming use and shall be regulated pursuant to Section 154.14, Nonconformities.

152.05.03 Buildings, Structures, and Lots Rendered Nonconforming

Where any building, structure, or lot lawfully existing on the effective date of this Code does not meet all standards set forth in this Code, or any amendment thereto, such building, structure, or lot shall be deemed nonconforming and shall be regulated pursuant to Section 154.14, Nonconformities.

152.05.04 Previously Approved Site Plans

When a site plan for any structure or lot has been lawfully approved prior to the effective date of this Code, and construction has begun within one year of the approval and is being diligently pursued to completion, the construction may be completed in accordance with the plans on the basis of which the approval was issued and may, upon completion, be occupied under a certificate of occupancy for the use originally intended.

152.05.05 Previously Issued Building Permits

When a building permit for any building or structure has been lawfully issued prior to the effective date of this Code, and construction has begun within six months of the issuance of such permit and is being diligently pursued to completion, the building or structure may be completed in accordance with the plans on the basis of which the permit was issued and may, upon completion, be occupied under a certificate of occupancy for the use originally intended.

152.05.06 Previously Granted Variances

All variances granted prior to the effective date of this Code shall remain in full force and effect.