

## 2.1 GENERAL

The definitions contained in this section shall be observed and applied in the interpretation of all sections of this Ordinance, except where the context clearly indicates otherwise. Furthermore, words used in the present tense, singular number, and masculine gender, shall also mean the future, plural, and feminine.

## 2.2 SPECIFIC

The following words and terms appearing in this Ordinance shall have the following meanings:

### Abandonment

The relinquishment of property or a cessation of the use of the property for a continuous period of one year by the owner without the intention of transferring rights to the property to another owner nor of resuming the use of the property.

### Accessory Building, Structure, or Use

A building, structure, or use which:

- A. is subordinate to and serves a principal building, structure, or use in area, extent, or purpose; and
- B. contributes to the comfort, convenience, or necessity of occupants of the principal buildings, structures, or principal uses served; and
- C. does not alter or change the character of the premises; and
- D. is located on the same zoning lot as the principal building, structure, or use; and
- E. conforms to the setback, height, bulk, lot coverage, and other requirements of this Ordinance unless otherwise provided for by this Ordinance; and
- F. may not be constructed prior to the time of construction of the principal building or structure; and
- G. is not designed for human occupancy as a dwelling or commercial use; and
- H. does not generate income (with the exception of carports or garages).

### Administrator

The officer appointed and/or delegated the responsibility for the administration of this Ordinance's regulations by the Town Council.

### Adult Bookstore

An establishment having at least a majority of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or sexual anatomical areas.

Adult Entertainment Business

An adult bookstore, adult motion picture theater, adult cabaret, adult live entertainment arcade, or any other use where entertainment of a sexually explicit nature is provided, regardless of whether or not such entertainment is ongoing or periodic.

Advisory Plan Commission

A planning commission serving a single local government jurisdiction established as defined under the Indiana Code, 36-7-1-2 (1983) as amended. The Ashley Plan Commission is an Advisory Plan Commission.

Aesthetics

The pleasantness of the total environment related to the perceptual aspects of the surroundings including their appearance to the eye and the comfort and enjoyment offered to the other senses.

Agriculture

The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any accessory uses shall be secondary to that of the normal agricultural activities.

"Agriculture" shall not include feed lots, stock yards, or the commercial feeding of garbage or offal to swine or other animals.

Airport Hazard

Any structure or object of natural growth located on or in the vicinity of a public airport or any use of land near such airport, which obstructs the air space required for the flight of aircraft in landing or takeoff or is otherwise hazardous to aircraft.

Aisle - See "Maneuvering Space."

Alley

A public right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access to abutting properties.

Amortization

The process of discontinuing non-conforming land uses.

Animal Hospital/Clinic - See "Veterinary Animal Hospital/Clinic."

Animal Shelter - See "Kennel."

Annexation

The process by which a municipality may add territory to itself, as specified in Indiana Code 36-4-3-1 to 36-4-3-21, as amended.

Antenna

Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna. Antennas shall include cellular on wheels (COWs) and cellular on light trucks (COLTs) facilities; as well as dispatch carriers for Specialized Mobile Radio (SMR) services and Enhanced SMR (ESMR).

Antenna - Building Mounted

Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building mounted mast less than 10 feet tall and 6 inches in diameter, or structure other than a telecommunication tower.

Antenna - Directional (also known as a panel antenna)

Any antenna that transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees.

Antenna - Ground Mounted

Any antenna with its base, single or multiple posts, placed directly on the ground or a mast less than 10 feet tall and 6 inches in diameter.

Antenna - Omni-directional

Any antenna that transmits and/or receives radio frequency signals in a 360 degree radial pattern. For the purpose of this Chapter, an omni-directional antenna is up to fifteen feet (15') in height and up to four inches (4") in diameter.

Antenna - Parabolic (also known as satellite dish antenna)

Any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, bowl or cornucopia shaped and is used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

Antenna - Portable

Any device used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern, located on a portable or moveable base designed to be placed either for temporary or long-term use at a given site.

Antenna - Vertical

A vertical type antenna without horizontal cross-sections greater than one half-inch in diameter.

Apartment

One (1) or more rooms in an apartment building or combination apartment and commercial building, arranged, intended, designed, or occupied on a rental basis as a dwelling unit of a single family, an individual, or a group of individuals.

Apartment Building

A multi-family housing structure designed and constructed to accommodate three (3) or more apartments, in contrast to a single or two-family dwellings converted for multi-family use.

Applicant

The owner, owners, or legal representative of real estate who makes application to the Plan Commission and/or Board of Zoning Appeals for action by said commission or board affecting the real estate owned thereby.

Arterial Street - See Street, ArterialAttached Building

A building that is structurally connected to another building by a foundation, wall, or roof line. Carports, garages, porch awnings and the like shall be considered attached buildings and abide by all regulations pertaining to primary buildings.

Auto Repair, Major

Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair; and overall painting of vehicles.

Auto Repair, Minor

Incidental repairs, replacement of parts, and motor service to automobiles but excluding any operation specified under "Automobile Repair, Major."

Automobile Service Station

Any building or premises used for the dispensing, sale, or offering for sale at retail to the public, automobile fuels stored only in underground tanks and located wholly within the lot lines; lubricating oil or grease for the operation of automobiles; and the sale and installation of tires, batteries, other minor accessories, and minor auto repair, but not including a bulk plant, conducting of major auto repairs, automobile wrecking, automobile sales, or automobile laundries; provided, however, that the washing of individual automobiles where no chain conveyor is employed may be included.

Awning

A covering mounted over doors and/or windows, usually made of canvas or other cloth material on an aluminum frame and extending from the building not more than eight (8) feet, attached to the building for protection from rain or for aesthetic purposes.

Barrier Curb - See "Curb, Barrier."

Bed and Breakfast Facility

An owner-occupied or owner employee occupied residence containing no more than six (6) guest rooms for hire, for lodging by pre-arrangement for periods not to exceed three (3) consecutive weeks and providing for occasional meals daily (usually breakfast) and not a hotel, boarding, lodging house or motel.

Berm

A man-made, formed, earth mound of definite height and width used for landscaping and obscuring purposes, the intent of which is to provide a transition between uses of differing intensity.

Bicycle-Compatible Roadway

A road designed to accommodate the shared use of the roadway by bicycles and motor vehicles.

Bicycle Lane

A lane at the edge of a roadway reserved and marked for the exclusive use of bicycles.

Bicycle Path

A pathway designed to be used by bicyclists and/or pedestrians.

Billboard - See "Sign, Outdoor Advertising."

Block

Property abutting on one side of a street and lying between the two (2) nearest intersecting or intercepting streets, intersecting railroad, intersecting waterway, or the end of a dead end street.

Blow-Off

An outfall in a pipe through which water or sediment can be discharged from a lower sewer.

Board

The Town of Ashley Advisory Board of Zoning Appeals or any division thereof, as the case may be.

Boarding House

A building, not available to transients, in which meals are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.

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 Plan Commission. All bonds shall be approved by the Commission wherever a bond is required by these regulations.

Buffer Landscaping

Any trees, shrubs, walls, fences, berms, space, or related landscaping features required under this Ordinance on private lots, and privately maintained, for buffering lots from adjacent properties or public rights-of-way for the purpose of increasing privacy and aesthetics.

Bufferyards

An area adjacent to front, side and rear property lines, measured perpendicularly from adjacent property lines and/or right-of-way lines, intended to provide attractive spaces to reduce the impacts of proposed uses on adjacent property or natural features and to screen incompatible uses from each other. Buffers also help to maintain existing trees or natural vegetation, to block or reduce noise, glare or other emissions and to maintain privacy.

Building

A structure having a roof supported by columns or walls, for the shelter, support, or enclosure of persons, property, or animals; and when separated by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.

Building Area

The horizontal area of the buildings on a lot, measured from the outside exterior walls, excluding open areas or terraces, unenclosed porches or decks, and architectural features that project no more than two (2) feet.

Building Code

The Town ordinance establishing and controlling the standards for constructing mechanical equipment, and all forms of permanent structures and related matters within the Town. Also referred to herein as the Ashley Building Code.

Building, Detached

A building having no structural connection with another building.

Building Footprint

The profile of a building or structure as viewed from above the roof looking downward toward ground level.

Building Line

The line that establishes the minimum permitted distance on a lot between the building and property lines or right-of-way (See Figure 2.1).

Building, Principal

A building in which is conducted the main or principal use of the lot on which said 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.

Burn Barrel

Any container used for the outdoor incineration of waste material, yard debris, etc.

**Business**

The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, or the maintenance or operation of offices, recreational, or amusement enterprises.

**Business District**

Refers to B-1, B-2, and PD-B Districts.

**BZA**

The Board of Zoning Appeals of the Town of Ashley, Indiana.

**Campground**

Any site, lot, field, or tract of land designed with facilities for short term occupancy by recreational vehicles and other camping equipment but not including mobile homes.

**Capital Improvement Plan** - See "Plan, Capital Improvement."

**Capped System**

A completed water supply and/or sewerage system put in place for future use (contingent upon expansion), rather than to meet immediate development needs.

**Cartway**

The actual road surface area from curblines to curblines, which may include travel lanes, parking lanes, and deceleration and acceleration lanes. Where there are no curbs, the cartway is that portion between the edges of the paved, or hard surface, width.

**Car Wash**

Any permanent structure or facility used for the principal purpose of washing, cleaning, or polishing the exterior and/or interior of motor vehicles for a fee.

**Cemetery**

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

**Central Sewerage System**

The community sewer system including collection and treatment facilities owned and maintained by the Town of Ashley.

**Central Water System**

The community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities established by the developer to serve a new subdivision or commercial/industrial development.

**Certificate of Occupancy**

A certificate stating that the occupancy and use of a building or structure complies with the provisions of this Ordinance and the Ashley Building Code.

**Channel**

The bed and banks of a natural stream which convey the constant or intermittent flow of the stream.

**Channelization**

The straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

Clinic

An establishment in which human patients are admitted for medical or dental study or treatment and in which the services of at least two (2) physicians or dentists are provided.

Club

A building or portion thereof or premises owned or operated by a person for a social, literacy, political, educational or recreational purpose primarily for the exclusive use of members and their guests, but not including any organization, group or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

Cluster Development - See "Planned Unit Development."

Collector Street - See "Street, Collector."

Co-location - see telecommunication facility - co-located.

Commercial Use

means a use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over any period of time.

Commission

The Town of Ashley Advisory Plan Commission.

Common Open Space - See "Open Space, Common."

Component Home - See "Manufactured Home."

Composting

A controlled process of degrading organic material by microorganisms.

Composting Facility

Any location, structure, or facility where composting takes place.

Comprehensive Plan - See "Plan, Comprehensive."

Conceptual Plan - See "Plan, Conceptual."

Conditional Use

Special provisions or requirements applicable to specific uses in certain zoning districts. If specified conditions are met as determined in this Ordinance or by the Plan Commission or Zoning Administrator or designated agent, no further approval is required.

Condominium

Real estate lawfully subject to I.C. 32-1-6 (1-31), (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.

Conforming Manufactured Home

Pursuant to Public Law 312, Acts of 1981 (I.C. 36-7-4-1106), a residence constructed after January 1, 1981, that exceeds nine hundred fifty (950) square feet of occupied space and which is installed as a permanent dwelling unit which may be placed or constructed providing it complies with setback, side and rear yard, parking space, and minimum square footage requirements for the district in which it is located, and the underfloor space requirements of the Ashley Unified Zoning and Subdivision Control Ordinance.

Construction Plan - See "Plan, Conceptual."

Contingent Use

A use contemplated by the Ordinance, which is likely or liable but not certain to occur, and is compatible with the essential design of a particular district although the use is contrary to the restrictions imposed thereon.

Convenience Store

Any commercial location, facility, or structure where gasoline and groceries (including food, drink, and household items) are sold on the same premises.

Conventional Development

Development other than planned unit development.

Council

The Town Council of the Town of Ashley, Indiana.

County

DeKalb County or Steuben County, Indiana, as may be appropriate.

Covenants

Private and legal restrictions of various kinds on the usage of lots within a subdivision which are proposed by the subdivider and, in the case of public health, safety and welfare, by the Commission, that are recorded with the plat and deed. Covenants can also be placed on commercial and industrial developments.

Cul-De-Sac

A short street having one (1) end open to traffic and being permanently terminated by a vehicular turn-around.

Culvert

A structure designed to convey a watercourse not incorporated in a closed drainage system under a road or pedestrian walk.

Curb

A vertical or sloping edge of a roadway.

Curb, Barrier

A steep-faced curb intended to prevent encroachments.

Curb, Mountable

A low curb with a flat slope designed to be crossed easily without discomfort.

Day Care Center

Any institution operated for the care of children, licensed pursuant to I.C. 12-3-2-3.1, et seq., and as defined by Indiana Code Section 12-3-2-3.

Dedication

The setting apart of land or interests in land for use by the public by ordinance, resolution, or entry in the official minutes as by the recording of a plat.

Density

The number of buildings, offices, or housing units on a particular area of land.



Density, High

Residential development having a density in excess of ten (10) dwelling units per gross acre. Also refers to an R-3 zoning district.

Density, Low

Residential development having a density equal to or less than six (6) dwelling units per gross acre. Also refers to an R-1 zoning district.

Density, Medium

Residential development having a density of seven (7) to ten (10) dwelling units per gross acre. Also refers to an R-2 zoning district.

Design Flood - See "Regulatory Flood."

Design Standards

Standards that may set forth specific improvement requirements.

Design Standards Variance - See "Variance, Design Standards/Development Regulations."

Detached Building

A building that has no structural connection with the principal building.

Detention Basin

A man-made or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same, gradually, at a rate not greater than that prior to the development of the property, into natural or man-made outlets.

Developer

The owner or legal representative of land proposed to be subdivided for any use or utilized for commercial or industrial purposes. Consent for making applications for development approval shall be required from the legal owner of the premises.

Development Plan - See "Plan, Development."

Development Regulation

Zoning, subdivision, site plan, official map, flood plain regulation, or other governmental regulation of the use and development of land.

Development Regulation Standards - See "Design Standards."

Development Regulation Variance - See "Variance, Design Standards/Development Regulations."

Digital Dish System

A small dish of approximately one (1) to two (2) feet (.3-.6m) in diameter installed on or adjacent to a building for the purpose of receiving audio/video signals.

Direct Broadcast Satellite Service

is a system in which signals are transmitted directly from a satellite to a small (not exceeding 18") home receiving dish. DBS competes with cable television.

District

A section of the Town of Ashley for which uniform zoning regulations exist governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings, as established by this Ordinance.

Divided Street - See "Street, Divided."

Drainage

The removal of surface water or groundwater from land by drains, grading, or other means.

Drainage Facility

Any component of the drainage system.

Drainage System

The system through which water flows from the land, including all watercourses, water bodies, and wetlands.

Drive-In

An establishment selling foods, desserts, or beverages to consumers, the establishment being designed, intended or used for the consumption of such items on the premises outside of the building in which they were prepared.

Drives, Private - See "Street, Private."

Duplex

Any structure which contains only two (2) dwelling units; a two-family dwelling.

Dwelling

A building or structure or portion thereof, conforming to all requirements applicable to the residential use districts and Ashley Building Code, used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multi-family dwelling units, but excluding hotels, boarding houses, and lodging houses.

Dwelling, Multi-Family

A residential building designed for or occupied by two (2) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family

A detached residential dwelling unit designed for and occupied by one (1) family.

Dwelling, Two-Family

A detached residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families. (See also "Duplex".)

Dwelling Unit

Any structure or portion thereof designed for or used for residential purposes as a self-sufficient or individual unit by one (1) family or other social association of persons and having permanently installed cooking and sanitary facilities.

Easement

A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of providing services or access to the property.

Environmental Constraints

Features, natural resources, or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

Equipment building, shelter or cabinet

means a cabinet or building used to house equipment used by telecommunication providers to house equipment at a facility.

Erosion

The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice or gravity.

Escrow

A deed, a bond, money, or a piece of property delivered to a third person to be delivered by him to the grantee only upon fulfillment of a condition.

Essential Services

The phrase "Essential Services" means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead electrical, gas, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or including electrical substations. No permit is required for essential services.

Expressway/Freeway

Any roadway that operates at a high service level, consists of limited access, is divided, carries region-wide traffic and is generally classified as part of an interstate system.

Family

An individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than three (3) persons, not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

Farm

An area used for agricultural operations, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry.

Fence

A structure designed and constructed for enclosures and/or screening. A hedge serving the same purposes as a fence shall be considered a fence.

Fee Schedule – See "Official Fee Schedule."

Filling Station

Any establishment supplying and selling motor fuel or oil direct to motor vehicles.

Final Approval

The official action of the Plan Commission taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans, and other requirements have been completed or fulfilled and the required improvements have been installed, or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantee (generally referred to as secondary approval).

Final Plat

The final map of all or a portion of a development which is presented for final approval (generally referred to as secondary plat.)

Flood Control

The prevention of floods, the control, regulation, diversion or confinement of flood water or flood flow, and the protection therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage, and destruction caused thereby.

Flood Plain

The relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The flood plain includes the channel, floodway, and floodway fringe. Flood plain boundaries are to be determined by using the Floodway- Flood Boundary Maps of the Federal Insurance Administration.

Flood Protection Grade

The elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.

Floodway - See "Regulatory Floodway."

Floor Area

The horizontal area of all floors of buildings or structures.

Footprint - See "Building Footprint."

Foundation

The supporting member of a wall or structure.

Freeway - See Expressway

Front Line

With respect to a building, the foundation line that is nearest the front lot line.

Front Lot Line

- A. For an interior or through lot, the line marking the boundary between the lot and the abutting street right-of-way or a lake or watercourse; and
- B. For a corner lot, the line marking the boundary between the lot and the abutting street right-of-way on which the address for the property is established; except as deed restrictions may otherwise specify (See Figure 2.1).

Front Yard

The horizontal space between the nearest foundation of a building to the Front Lot Line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the Front Lot 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 may otherwise specify. (See Figure 2.1)

Frontage

All property of a lot fronting on a street right-of-way, as measured between side lot lines.

Garage, Private

A detached accessory building or an addition attached to a primary structure with capacity for not more than three (3) motor vehicles per family, not more than one (1) of which may be a commercial vehicle of not more than three (3) tons GVW. A garage designed to house two (2) motor vehicles for each family housed in a multi-family dwelling shall be classed as a private garage.

Garage, Public

Any building, except those defined herein as a private garage, used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Garage Sale - See "Sale, Garage/Yard."

General Development Plan - See "Plan, General Development."

General Industrial Use

Manufacturing, processing, heavy repairing, dismantling, or storage, in which a majority of operations are performed within enclosed buildings.

Governing Body - See "Council."

Grade

The slope of a street, or other public way, specified in percentage (%) terms, with the vertical distance being the numerator, and the horizontal distance being the denominator.

Greenhouse, Commercial

Any location, facility, or structure where plants are grown indoors for sale.

Greenhouse, Residential

Any accessory use, structure, or addition to a residential property where plants are grown indoors for hobby, personal use, or personal consumption. Also, any accessory use, structure, or addition to a residential property being primarily constructed of glass or other translucent materials.

Ground Cover

A planting of low-growing plants or sod that in time forms a dense mat covering the area, preventing both soil from being blown or washed away and the growth of unwanted plants.

Ground Floor Area

See "Building Area."

Group Home

- A. Developmentally Disabled: A residential facility for the developmentally disabled, as defined and regulated under I.C. 16-13-21-12.
- B. Mentally Disabled: A residential facility for the mentally disabled as defined and regulated under I.C. 16-13-21-11.5.

Gutter

A shallow channel usually set along a curb or the pavement edge of a road for purposes of catching and carrying off runoff water.

Hardship

A 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 standards of this Ordinance; any result of land division requiring variance from the development standards of this Ordinance in order to render that site buildable.

Height of Building

The vertical distance measured from the highest ground level at the foundation to the highest point of the roof, or any projection thereof.

High Density - See "Density, High."

Historic District

An area related by historical events or themes, by visual continuity or character, or by some other special feature that helps give it a unique historical identity, which may be designated as such by local, state, or federal government.

Historic Preservation Commission

A commission of local jurisdiction created in accordance with the provisions of I.C. 18-7-22 for the purposes of reviewing the establishment of Historic Preservation Overlay Districts, adopting and amending development standards for Historic Preservation Overlay Districts, and identifying local landmarks.

Historic Preservation Overlay District

A district which may be established to promote the cultural, economic, and general welfare of the public through the preservation and protection of structures and areas of local historical and cultural interest.

Historic Site

A structure or place of historical significance, which may be designated as such by local, state, or federal government.

Home Occupation

- A. An occupation carried on in a dwelling by the resident thereof, not involving:
1. retail sales as a primary function;
  2. the employment of any additional persons in the performance of such services except members of the immediate family residing on the premises;
  3. the use of any mechanical equipment, other than is usual for purely domestic or hobby purposes; or
  4. exterior storage of equipment or materials used in connection with the home occupation.
  5. the use of more than twenty-five percent (25%) of the total floor area of one-story.
  6. the substantial alteration of the "residential" appearance of the residence.
  7. the paving and/or allowing of additional parking on the front, side or rear yard of a residential property.
  8. substantial increases in vehicular traffic to and from the Home Occupation location.
- B. Permitted home occupations shall be of a personal service nature limited to domestic crafts and professional services.
- C. Permitted uses are deemed so until the Council, Commission or BZA rule the use to be a nuisance, or until all adjacent neighbors petition to the Town that the use is a nuisance.
- D. A permit must be acquired to begin the conversion of a home and the start of operations as a Home Occupation.
- E. A business telephone in itself does not define a home occupation or a permitted home occupation.
- F. A home occupation permit is not transferable upon the transfer of property.

Hotel

A building in which lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public. Compensation is usually assessed on a day-to-day basis.

Hospital

An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for three (3) or more non-related individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term "hospital" as used in this Ordinance does not apply to institutions operating primarily for treatment of insane persons, drug addicts, alcoholics, and other types of cases necessitating restraint of patients, and the term "hospital" shall not include convalescent, nursing, shelter, or boarding homes.

Impervious Surface

A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, such as concrete, cement, asphalt, brick, paving block, rooftops, etc.

Impoundment

A body of water, such as a pond, confined by a dam, dike, floodgate, or other barrier.

Improvement

Any man-made, immovable item which becomes part of, is placed upon, or is affixed to, real estate; facilities which aid in land development.

Improvement Location Permit

A permit signed by the Zoning Administrator or designated agent stating that a proposed improvement complies with the provisions of this Ordinance and such other ordinances as may be applicable.

Incinerator

A device, structure, or facility designed to reduce waste volume by combustion, consisting of refuse handling and storage facilities, furnaces, combustion chambers, subsidence chambers, residue handling and removal facilities, and chimneys.

Industrial District

Refers to the I-1 and PD-I Districts.

Industrial Park

An industrial development not less than twenty (20) acres in area developed within the I or PD-I zoning districts, in which buildings and land may be used for research, office, experimental or testing laboratories, light industrial, manufacturing, storage and distribution facilities, and other customary uses.

Inhabited Area

Any residence, any other structure regularly occupied by people, or any outdoor area used by people on a regular basis.

Integrated Center

A building containing a number of individual, unrelated and separately operated uses which share common site facilities and services such as driveway entrances and exits, parking areas, truck loading, maintenance, sewer and water utilities, or similar common facilities and services; or one or more buildings containing individual, unrelated and separately operated uses, occupying a site under one ownership or management for lease, and utilizing one or a combination of the aforementioned common services.

Interior Lot - See "Lot, Interior."

Interstate - See "Expressway."

Island

With respect to street design, a raised area, usually curbed, placed to guide traffic and separate lanes, or uses for landscaping, signing, or lighting.

Junk

An automobile, truck, other motor vehicle, large appliances, furniture or like material which has been damaged to such an extent that it cannot be operated under its own power or used and/or will require major repairs before being made usable. This could include such a vehicle which does not comply with State or Town vehicle laws or ordinances.

Junk Yard

A place, usually outdoors, where waste or discarded used property other than organic matter, including but not limited to, automobiles, farm implements and trucks, is accumulated and may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard.

Jurisdiction

The territory under the regulatory control of the Ashley Plan Commission, including all lands inside the corporate limits of the Town of Ashley, or as may otherwise be constituted by agreement.

Kenel

Any lot on which four (4) or more dogs, or small animals at least four (4) months of age, are kept.

Landscaping

The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flowerbeds, berms, fountains and other similar natural and manmade objects designed and arranged to produce an aesthetically pleasing effect.

Lattice Tower

means a self supporting support structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.

Limited Access Highway

A highway to which abutting properties are denied access or where access is limited to certain locations.

Loading and Unloading Berths

The off-street area required for the receipt or distribution by vehicles of material or merchandise, which in this Ordinance is held to be, at minimum, a twelve (12) foot by thirty (30) foot loading space with a fourteen (14) foot height clearance, paved with a hard surface.

Local Street - See "Street, Local."Lodging House

A building, not available to transients, in which lodgings are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.

Lot

A parcel of land occupied or to be occupied by one (1) or more buildings and uses including the open spaces required under this Ordinance. A lot may be land so recorded on official records or it may include parts or a combination of such lots when adjacent to one another, provided such ground is used for only one (1) principle use, or may be a parcel of land described by metes and bounds.

Lot, Corner

A lot situated at the intersection of two (2) streets or which fronts a street on two (2) or more sides. (See Figure 2.1)



Lot Coverage

The area of a lot occupied by the principal building and any accessory buildings.

Lot Depth

The horizontal distance between the front and rear lot lines.

Lot, Interior

A lot other than a corner lot or through lot. (See Figure 2.1)

Lot Line, Front

For an interior lot, a line separating the lot from the street; and for a corner lot, a line separating the lot from the street on which the property's address is established. (See Figure 2.1)

Lot Line, Rear

A lot line which is opposite and most distant from the front lot line, and in case of an irregular or triangular-shaped lot, a line ten (10) feet in length within the lot, parallel to and at a maximum distance from the front lot line. (See Figure 2.1)

Lot Line, Side

Any lot boundary line not a front lot line or a rear lot line. (See Figure 2.1)

Lot, Through

A lot fronting on two (2) parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

Lot Width

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

Low Density - See "Density, Low."Main

In any system of continuous piping, the principal artery of the system to which branches may be connected.

Maintenance Guarantee

Any security which may be required and accepted by a governmental agency to ensure those necessary improvements will function as required for a specific period of time.

Maneuvering Space

An open space in a parking area which:

- A. is immediately adjacent to a parking space;
- B. is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but
- C. is not used for the parking or storage of motor vehicles.

Manufactured Home (see also "Conforming 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.C. 5401 et seq.), and which also complies with the following specifications:

- A. 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);

- B. 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;
- C. has wheels, axles, and towing chassis removed;
- D. has a pitched roof with a minimum rise of 2/12; and
- E. consists of two (2) or more sections which, when joined, have a minimum dimension of twenty (20) feet in both length and width.
- F. Is permanently attached to utilities

Marker (Survey)

A stake, pipe, rode, nail, or any other object which is not intended to be a permanent point for record purposes.

Master Plan - See "Plan; Comprehensive."

Median

That portion of a divided highway separating lanes of traffic proceeding in opposite directions.

Medium Density – See "Density, Medium."

Mobile Home

Any housing unit defined or titled by the State of Indiana as a "Mobile Home" and/or any portable structure eight (8) feet or more wide, thirty (30) feet or more long, designed primarily for year-round residency, was originally designed and transported with its own running gear, and by the nature of its design does not require a permanent foundation.

Mobile Home Parks

Any site, lot, field, or tract of land under single ownership, or ownership of two or more persons upon which two or more mobile homes to be used for human habitation are parked, either free of charge or for revenue purposes, and shall include any street used or intended for use as part of the facilities of such mobile home park. A mobile home park does not include a mobile home sales area on which unoccupied mobile homes are parked for inspection or sale.

Mobile Home Park Street

A public or private way other than an alley which affords a primary means of access to abutting property within a mobile home park.

Mobile Home Subdivision

Any site, lot, field, or tract of land under single ownership, or ownership of two or more persons, which is to be divided into smaller sites, lots, fields, or tracts of land, which smaller sites, lots, fields, or tracts of land are to be sold for use by the purchaser to park such purchaser's mobile homes.

Modular Home

A residence built pursuant to regulations promulgated by the Fire Prevention and Building Safety Commission or its successor for industrialized building systems pursuant to I.C. 22-13-4-2 as amended from time to time and which is permanently placed upon a foundation.

Monopole

A wireless communication facility which consists of a monopolar structure, erected on the ground to support wireless communication antennas and connecting appurtenances.

Monument (Survey)

A permanent physical structure which marks the location of a corner or other survey point.

Motel

An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the use and upkeep of furniture.

Motor Vehicle

Any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

Mountable Curb - See "Curb, Mountable."

Moving Lane

Any traffic lane where traffic movement is the primary if not the sole function.

Mulch

A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, aid in plant growth, or improve the general aesthetic quality.

NIER

Non-Ionizing Electromagnetic Radiation (i.e., electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum).

Non-Conforming Building

A building, structure, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the district in which it is located.

Non-Conforming Use

A use which does not conform with the use regulations of the district in which it is located.

Nuisance

The use of land or behavior that brings harm or substantial annoyance to adjacent property owners or the public in general.

Nursing Home - See "Rest Home."

Official Fee Schedule

Schedule of fees established by Town Council and maintained in the Clerk-Treasurer's Office which specifies all current permit fees, rates, etc.

Off-Site

Located outside the lot lines of the lot in question but within the property (of which the lot is a part) that is the subject of a development application, or in a contiguous portion of a street or right-of-way.

Off-Site Improvements

Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval, upon which is located improvements required by or related to the property to be subdivided.

Off-Street Parking Space - See "Parking Space, Off-Street."

Off-Tract

Not located on the property that is the subject of a development application nor on a contiguous portion of a street or right-of-way.

On-Site

Located on the lot in question.

On-Street Parking Space - See "Parking Space, On-Street."

On-Tract

Located on the property that is the subject of a development application or on a contiguous portion of a street right-of-way.

Open Space

An area of land not covered by buildings, parking structures, or accessory uses except for recreational structures. Open space may include nature areas; streams and flood plains; meadows or open fields containing baseball, football, and soccer fields; golf courses, swimming pools, bicycle paths, etc. Open Space does not include street rights-of-way, platted lot area, private yard, patio areas, or land scheduled for future development.

Open Space, Common

Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development. It may include complementary structures and improvements.

Open Space District

Refers to an "O" District.

Open Space, Public

An open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency, or other public body for recreational or conservational uses.

Outdoor Advertising - See "Sign, Outdoor Advertising."

Outdoor Cafe

Any portion of food establishment or eating or drinking place located on a public sidewalk or public open space that provides waiter or waitress service and is unenclosed.

Outdoor Sales - See "Sales ..."

Outdoor Storage – See "Storage, Outdoor."

Owner

Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations, or their legal representative.

Parcel

A piece of land having a legal description formally set forth in a conveyance together with a description of its location, shape, and size, in order to make possible its easy identification.

Parking, Off-Street

A parking space provided in a parking lot, parking structure, or private driveway.

Parking, On-Street

A parking space that is located on a dedicated street right-of-way.

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, and paved with a hard surface.

Parking Lane

A lane generally located on the sides of streets, designed to provide on-street parking for vehicular traffic.

Parking Space, Automobile

Space within a public or private parking area for the storage of one (1) passenger automobile or commercial vehicle under a one and one-half (1 1/2) ton capacity.

Pavement - An asphalt or concrete surface.

Performance Bond

An amount of money or other negotiable security paid by the subdivider or his surety to the Town which guarantees that the subdivider will perform all actions required by the Town regarding an approved plat, and provides that if the subdivider defaults and fails to comply with the provisions of an approved plat, the subdivider or his surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

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 the necessary openings, constructed in accordance with the Ashley Building Code.

Person

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

Pervious Surface

A surface that permits full or partial absorption of stormwater, such as grass and other vegetation, soil, water bodies, gravel, approved open-center paving block, etc. Decks made of wood and other materials shall be considered pervious if not built over an impervious slab or foundation and if slats are spaced a minimum of 1/8-inch apart.

Plan

In reference to documentation, the Comprehensive Plan of Ashley, Indiana, and any other supporting or accompanying ordinances, plans, resolutions, rules, or regulations and including their provisions, except where the context clearly indicates otherwise.

Plan, Capital Improvement

A proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. Major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the capital improvements for the community are included.

Plan Commission

The Advisory Plan Commission of the Town of Ashley.

Plan, Comprehensive

A long-range plan intended to guide the growth and development of the community; inclusive physical, social, and economic analysis, recommendations, proposals, plans, and policies in written or graphic forms for the development of the jurisdiction and adopted by the Commission pursuant to the I.C. 36-7-4-500 series and including any part and/or policies separately adopted and any amendment to such plan or parts thereof.

Plan, Conceptual

A preliminary presentation and attendant documentation of a proposed subdivision or site plat showing the specific location and design of improvements to be installed for the subdivision or site in accordance with the requirements of this Plan as a condition of the approval of the plat.

Plan, Construction - See "Plan, Conceptual."

Plan, Development

A drawing in accordance with IC 7-1-6, including a legal or site description of the real estate involved, which shows the location and size of all existing and proposed easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining streets; all of which presents a unified and organized arrangement of buildings and service facilities and other improvements such as planting areas, which shall have a functional relationship to the real estate comprising the planned development and to the uses of properties immediately adjacent to the proposed development.

Plan, General Development

A plan outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. As such, it allows general intentions to be proposed and discussed without the extensive costs involved in submitting a detailed proposal.

Plan, Thoroughfare - See "Thoroughfare Plan."

Planned Unit Development (PUD) (also planned development)

A large-scale unified development meeting the requirements for zoning approval under the provisions of Section 6 of this Ordinance.

Generally, a planned unit development consists of a parcel or parcels of land to be developed as a single entity which does not correspond in size of lots, bulk or type of buildings, density, lot coverage, and required open space to the regulations established in any district specified in this Ordinance.

This may result in more attractive and affordable development than conventional developments would allow. Clustered housing (dwellings built in innovative lot arrangements around common open space) and zero lot line housing (dwellings built immediately adjacent to lot lines) are possible as part of planned developments. A planned unit development requires approval through a zoning map amendment and development plan approval process as specified in Section 6 herein.

Plat

A map or chart that shows a division of land and is intended to be filed for record.

Plat, Primary

The primary plat, pursuant to I.C. 36-7-4-700 series, is the plat and plans upon which the approval of a proposed subdivision are based. The primary plat and plans shall be subject to public notice and public hearing according to law and according to Plan Commission rules. (Under former State statutes, the primary plat was referred to as a "preliminary" plat.)

Plat, Secondary

The secondary plat, pursuant to I.C. 36-7-4-700 series, is the final plat document in recordable form. A secondary plat shall substantially conform with the preceding primary plat, or section thereof. The secondary plat and plans are not subject to public notices and public hearings. Secondary plat approval is an administrative function to be carried out in the manner prescribed by the written rules of the Advisory Plan Commission rules, either in public meeting or by Zoning Administrator or designated agent. (Under former State statutes, the secondary plat was referred to as the final plat.)

Porch

A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

Practical Difficulty

A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship", rather it is a situation where the owner could comply with the regulations within this Ordinance, but would like a variance from the Development Standards to improve his site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the Development Standards for a new garage location.

Prefabricated Home

Either a "Mobile Home", "Manufactured Home", or "Modular Home" as defined herein.

Primary Plat – See "Plat, Primary."

Principal Building/Structure

The building or structure in which the principal use of the lot or premises is located or conducted, with respect to residential uses, the principal building or structure shall be the main dwelling.

Principal Use

The main use of land or buildings as distinguished from an accessory use. A principal use may be either a permitted use or a special exception.

Private School

Private preprimary, primary, grade, high or preparatory school or academy.

Private Street – See "Street, Private."

Professional Office

An office used by members of a recognized profession such as architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, and realtors or insurance agents and brokers.

Public Improvements

Any storm drainage facility, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, utility, 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.

Public Open Space - See "Open Space, Public."

Public Parking Area - See "Parking Area, Public."

Public/Private Parking Area

A group of parking spaces in an open area not including any part of a street or alley designed or used for temporary parking of motor vehicles.

Public service use or facility

A use operated or used by a public body or public utility in connection with any of the following services: water, waste water management, public education, parks and recreation, fire and police protection, solid waste management, transportation or utilities.

Public Street – See "Street, Public."

Public Structure - See "Structure, Public."

Public Utility

Any person, firm, or corporation duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, fiber optics, transportation, water, or sewerage systems.

Public way

All public streets, alleys, and utility easements, now and hereafter owned by the Town, but only to the extent of the Town's right, title, interest or authority to grant a license to occupy and use such streets, alleys, and easements for telecommunications facilities.

PUD - See "Planned Unit Development."

Quasi-Public Use

means a use serving the public at large, and operated by a private entity under a franchise or other similar governmental authorization, designed to promote the interests of the general public or operated by a recognized civic organization for the benefit of the general public.

Readily Visible

An object that stands out as a prominent feature of the landscape when viewed with the naked eye.

Rear Lot Line - See "Lot Line, Rear."

Rear Yard - See "Yard, Rear."

Recreational Vehicle

A portable vehicular structure designed as a temporary dwelling for travel and vacation uses which:

- A. is identified on the unit by the manufacturer as a travel trailer or recreational vehicle
- B. is not more than eight feet in body width
- C. is of any weight provided its body length does not exceed twenty-nine feet
- D. may be mounted on an automobile or truck chassis or towable
- E. is designed to be used for sleeping and human habitation

Recreational Vehicle Park

Any site, lot, field, or tract of land under single ownership, or ownership of two or more people, designed with facilities for short-term occupancy by recreational vehicles only.

Recycling

A resource recovery method involving the collection and processing of a waste product for use as raw material in the manufacture of new products.

Recycling Center

Any permanent structure or facility where recyclable materials are stored or processed.



Recycling Drop-Off

Any structure, facility, or location, either temporary or permanent, where recyclable materials from more than one household are left for transport to a recycling center.

Recycling, Mobile Unit

Any vehicle, wagon, cart, trailer, or moveable bin used for the collection and/or temporary storage of recyclable materials.

Registered Land Surveyor

A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Professional Engineer

An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Regulatory Flood

A 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 Flood Profile

A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

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.

Related equipment

All equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors.

Residential District

Refers to an R-1, R-2, R-3, or PD-R District.

Rest Home/Nursing Home

A private home for the care of the aged or infirm, or any other person in need of nursing care and which does not contain equipment for surgical care or for treatment of disease or injury, and is not primarily designed for mental patients, drug addicts, or alcoholics.

Resubdivision

A change in a recorded subdivision plat if such change affects any street layout or area reserved thereon for public use or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Retaining Wall

A structure erected between lands of different elevation to protect structures and/or to prevent the washing down or erosion of earth from the upper slope level.

Retention Basin

A pond, pool, or basin used for the permanent storage of water runoff. By definition, a retention pond has standing water at all times.

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.

Sale, Garage/Yard

A sale of household goods, furniture, equipment, utensils, appliances, tools, personal clothing or effects, novelty items, glassware, farm products, or similar personal property, including, but not limited to any sale commonly termed PORCH SALE, YARD SALE, LAWN SALE, GROUP FAMILY SALE, RUMMAGE SALE, WHITE ELEPHANT SALE, FLEA MARKET SALE, or ATTIC SALE.

Sale, Roadside

Sale of goods by one or more vendor over the age of eighteen (18), having transported such goods or services by car, truck, bicycle, trailer, or cart to a temporary roadside location (additional conditions specified in Section 4.5 of the Ashley Unified Zoning and Subdivision Control Ordinance).

Sale, Sidewalk

Sale of goods or services by one or more vendor on a sidewalk or public open space immediately outside of the commercial establishment in which such goods or services are typically sold (additional conditions specified in Section 4.5 of the Ashley Unified Zoning and Subdivision Control Ordinance).

Sanitary Landfill

A site on which solid wastes are disposed of in a manner protective to the environment, such that wastes are spread in thin layers, compacted to the smallest practical volume, and covered with soil at the end of each work day.

Satellite Dish

An apparatus capable of receiving audio/visual broadcasts from a transmitter relay located in planetary orbit, generally four (4) to eight (8) feet (1.2 to 2.4 m) in diameter.

Satellite Earth Station

A telecommunication facility consisting of more than a single satellite dish smaller than 10 feet in diameter that transmits to and/or receives signals from an orbiting satellite.

School

A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Indiana School Laws, including pre-kindergarten, kindergarten, elementary school, and junior and senior high schools, but excluding trade, business, or commercial schools.

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 salvaged metal pipes, wire, beams, angles, rods, machinery, parts, fittings, 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 by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for sale and shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operations; such an establishment shall not include 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 a junk yard.

Seasonal Business

A temporary business operating at a non-permanent location for certain months of the year or during special events.

Secondary Plat - See "Plat, Secondary."

Service Station - See "Automobile Service Station."

Setback

The minimum horizontal distance between the building line and a lot line or right-of-way. (See Figure 2.1)

Shared Housing

Any dwelling unit which the owner allows to be occupied by unrelated persons living as a single housekeeping unit, provided that the number of occupants does not exceed twice the number of bedrooms, and that the total number of occupants does not exceed four (4) regardless of the number of bedrooms.

Shoulder

The graded or paved part of the right-of-way that lies between the edge of the main pavement (cartway) and the curb or ditch.

Side Lot Line

A lot boundary line other than a front or rear lot line. (See Figure 2.1)

Sidewalk

That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

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 escapes, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space. (See Figure 2.1)

Sight Triangle

A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign

A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business.

Sign, Outdoor Advertising

A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. Also called billboard or off-premises sign.

Sign, Temporary

An on-premise advertising device not fixed to a permanent foundation, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

Silhouette

A representation of the outline of the towers and antenna associated with a telecommunication facility, as seen from an elevation perspective.

Special Exception

The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the Plan Commission per Section 11.3 of this Ordinance.

Storage, Outdoor

The outdoor accumulation of goods, junk, vehicles, equipment, products, or materials for permanent or temporary holding.

Story

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it; also, any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four (4) feet. The minimum height of an interior wall of one story is to be seven feet six inches (7'-6") from the surface of the floor to the surface of the ceiling for it to be considered a full story. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof.

Story, Half

A story under a gable, hip, or gambrel roof. In order to be considered a half story, the story shall measure between thirty-six inches (36") and sixty inches (60") on the exterior wall and at least seven feet six inches (7'-6") on the interior wall from the surface of the floor to the surface of the ceiling.

Street

Any street, avenue, boulevard, road, parkway, viaduct, drive, or other roadway.

Street, Arterial

A street designed for high volume traffic.

Street, Collector

A street designed to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways to reach arterial streets.

Street, Divided

A street having an island or other barrier separating moving lanes.

Street Furniture

Man-made, above-ground items that are generally found in street rights-of-way, including benches, kiosks, plants, canopies, waste receptacles, shelters, and phone booths.

Street Hardware

The mechanical and utility systems within a street right-of-way, such as hydrants, manhole covers, traffic lights and signs, utility poles and lines, and parking meters.

Street, Local

A street designed primarily to provide access to abutting properties and discourage through traffic.

Street, Private

Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with other streets within public rights-of-way and are maintained by the owner(s).

Street, Public

All property dedicated or intended for public highway, freeway, or roadway purpose or subject to public easements therefor.

Strip Development

Uncoordinated and often unsightly development that generally occurs along main highways and thoroughfares leading into and out of a community. Strip development often includes fast food restaurants, filling stations, used car lots, and shopping centers.

Structure

Any building or thing, constructed or erected, which requires location on the ground or attachment to something having a location on the ground.

Structural Alterations

Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams or girders, or any substantial change in the footprint or increasing size of living space.

Structure Ridgeline

The line along the top of a roof or top of a structure, if it has no roof.

Subdivision

The division of a parent tract or other piece of land into at least two (2) smaller lots or the combination of two or smaller lots into one lot so that either now or in the future the subdivider can do any of the following with one or more of the subdivided lots:

- A. transfer ownership
- B. construct buildings
- C. create new building sites for leasehold.

The actual location, shape and size of a parent tract to be divided is determined by the official record of the last transfer of its ownership transacted before the Ashley Unified Zoning and Subdivision Control Ordinance enacted or by its last conditional transfer of ownership by recorded contract transacted before the Ashley Unified Zoning and Subdivision Control Ordinance was enacted. The following kinds of divisions are not subdivisions and are exempt from the rules of the Ashley Unified Zoning and Subdivision Control Ordinance:

- A. A division of land into two (2) or more tracts, all of which are at least ten (10) acres in size;
- B. A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional principal use building sites are created by the division;
- C. A division of land for federal, state or local government to acquire street right-of-way;

- D. A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division. The lots so created hereunder shall have only one principal use building site each.
- E. Property legally divided prior to adoption of this Ordinance.

Survey Marker - See "Marker."

Survey Monument - See "Monument."

Swimming Pool

A self-contained body of water at least eighteen (18) inches deep and eight (8) feet in diameter or width and used for recreational purposes. It may be above or below ground level, and shall be considered an accessory structure and use.

Tattoo Parlor

A place of business where tattooing is performed, also including the instruction, schooling, or education of tattooing. Tattooing means the placement in human tissue of any indelible design, letter, scroll, figure or symbol or other mark placed with the aid of needles or other instruments: or any design, letter, scroll, figure or symbol done by scarring upon or under the skin.

Telecommunication Facility

A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

Telecommunications Facility - Exempt

Include, but are not limited to, the following unless located within a recognized Historic District:

- A. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying a residential parcel on which the radio or television antenna is located; with an antenna height not exceeding twenty-five feet (25');
- B. A ground or building mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed thirty-five feet (35');
- C. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed thirty-five feet (35').
- D. A ground or building mounted received only radio or television satellite dish antenna, which does not exceed thirty-six inches (36") in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridgeline of the primary structure on said parcel.
- E. All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of the adoption of this Ordinance.
- F. Mobile services providing public information coverage of news events of a temporary nature.
- G. Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices as determined by the Zoning Administrator or designated agent.

- H. Town government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights not exceeding thirty-five feet (35').

Telecommunications Facility - Major

All telecommunication facilities not clearly set forth and included in the definition of exempt, minor or mini facilities.

Telecommunication Facility - Mini

An attached wireless communication facility consisting, but not limited to, the following unless located on a structure recognized as a Historic landmark:

- A. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying the parcel on which the radio or television antenna is located; with an antenna height not exceeding fifty feet (50');
- B. A ground or building mounted citizens band radio antenna including any mast, if the height (tower, support structure, post and antenna) does not exceed seventy feet (70');
- C. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed seventy feet (70').
- D. A ground or building mounted received only radio or television satellite dish antenna, with diameter exceeding thirty-six inches (36") but less than 8' in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridgeline of the primary structure on said parcel.
- E. Exempt telecommunication facility located with a recognized Historic District.
- F. Town owned and operated antennae used for emergency response services, public utilities, operations and maintenance if the height does not exceed seventy feet (70'). If a facility does not meet these criteria then it is considered either an "exempt," "minor," or "major" telecommunication facility.

Telecommunication Facility - Minor

Any of the following:

- A. Antenna which meet the definition of "mini;" with the exception of the height limit.
- B. Telecommunication facilities less than thirty-five feet (35') in height and that adhere to Section 13.10 of this Ordinance.
- C. A single ground or building mounted whip (omni) antenna without a reflector, less than four inches (4") in diameter whose total height does not exceed thirty-five feet (35'); including any mast to which it is attached, located on commercial and/or industrial zoned property.
- D. A ground or building mounted panel antenna whose height is equal to or less than four feet (4') and whose area is not more than 480 square inches in the aggregate (e.g.: one foot (1') diameter parabola or 2' x 1.5' panel) as viewed from any one point, located on commercial or industrial zoned property. The equipment cabinets shall be designed, placed and screened to be unobtrusive and effectively unnoticeable.

- E. More than three (3) antennas, satellite dishes (greater than 3' in diameter), panel antennas, or combination thereof, are proposed to be placed on the commercial or industrial parcel, including existing facilities.
- F. Building mounted antennas which, in the opinion of the Zoning Administrator or designated agent, are unobtrusive or undetectable by way of design and/or placement on the building, regardless of number; when located on commercial or industrial zoned property.
- G. Telecommunication facilities less than fifty feet (50') in height, in compliance with the applicable Sections of this Chapter, located on a parcel owned by the Town of Ashley and utilized for public and/or quasi-public uses where it is found by the Zoning Administrator or designated agent to be compatible with the existing Town uses of the property.
- H. Telecommunication facilities, including multiple antennas, in compliance with the applicable Sections of this Chapter, located on an industrial parcel and utilized for the sole use and purpose of a research and development tenant of said parcel, where it is found by the Zoning Administrator or designated agent to be aesthetically compatible with the existing and surrounding structures.
- I. Telecommunication facilities located on a structure recognized as a Historic Landmark. If a facility does not meet these criteria then it is considered a "major" telecommunication facility.

Telecommunication Facility - Co-Located

A telecommunication facility comprised of a single telecommunication tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

Telecommunication Facility - Commercial

A telecommunication facility that is operated primarily for a business purpose or purposes.

Telecommunication Facility - Multiple User

A telecommunication facility comprised of multiple telecommunication towers or buildings supporting one or more antennas owned or used by more than one public or private entity, excluding research and development industries with antennas to serve internal uses only.

Telecommunications Facility - Non Commercial

A telecommunication facility that is operated solely for a non business purpose.

Telecommunications Tower

A mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas. A ground or building mounted mast greater than ten feet (10') tall and six inches (6") in diameter supporting one or more antenna, dishes, arrays, etc. shall be considered a telecommunications tower.

Television Antenna

A metal tower located on or adjacent to a residence or other structure, for the purpose of receiving broadcast messages from signal and/or relay towers.

Temporary Business

Any business operating at or within a moveable location or structure, or any business operating at a location which lacks permanent infrastructure including full utilities, parking, permanent signage, etc.

Temporary Sign - See "Sign, Temporary."



Territorial Jurisdiction - See "Jurisdiction."

Thoroughfare Plan

The portion of the Comprehensive Plan, now and hereafter adopted, which includes the identification and discussion of existing transportation systems, as well as the future needs of the community with respect to roads and streets.

Town

The Town of Ashley, Indiana.

Trade or Business School

A secretarial or business school or college that is not publicly owned, is not owned, conducted, or sponsored by a religious, charitable, or non-profit organization, and is not a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hairdressing, or the industrial or technical arts and like skills.

Tree

A woody perennial plant that reaches a mature height of at least eight (8) feet (2.4 m).

Use

The purposes of which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

Utility - See "Public Utility."

Variance, Use

The approval of a use other than that prescribed by this Ordinance; an act granted by I.C. 36-7-4-918.3. (See Section 11.4)

Variance, Development Regulations/Design Standards

A specific approval granted by a Board of Zoning Appeals in the manner prescribed in Section 11.4 of this Ordinance, to deviate from the development standards (such as height, bulk, area) that the Ordinance otherwise prescribes.

Veterinary Animal Hospital or Animal Clinic

A place used for the care, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the principal activity or use.

Vision Clearance on Corner Lots - See "Sight Triangle."

Yard

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

Yard, Front

The horizontal space between the nearest foundation of a building to the Front Lot Line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the Front Lot 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 may otherwise specify. (See Figure 2.1)

Yard, Rear

The horizontal space between the nearest foundation of a building to the rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the nearest

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. (See Figure 2.1)

Yard, Side

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 escapes, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space. (See Figure 2.1)

Zone - See "District."

Zoning Administrator - See "Administrator."

Zoning District - See "District."

Zoning Map

The official zoning map of the Town of Ashley, Indiana, denoting zoning districts.

Zoning Ordinance

A set of development guidelines, specifications, and regulations enacted by the Council to create districts which permit certain land uses and character specifications and prohibit others; in reference to documentation, the Ashley Unified Zoning and Subdivision Control Ordinance, and any other supporting or accompanying ordinances, plans, resolutions, rules, or regulations and including their provisions, except where the context clearly indicates otherwise.

Zoo

A permanent location, building, or structure where more than one exotic animal is kept, indoors and/or outdoors, as an attraction, and where admission is collected.

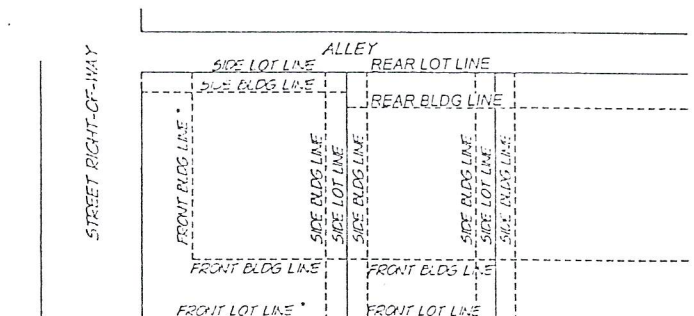
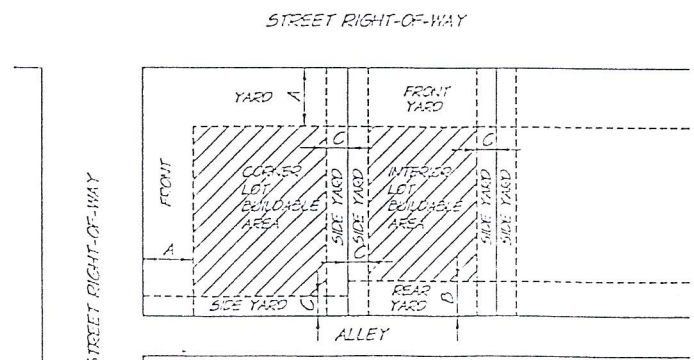


FIGURE 2.1



\* In the case of a corner lot, the front of the lot is determined by the street address.

A - FRONT YARD MINIMUM AS SPECIFIED IN SECTION 5.2 TABLE B  
 B - REAR YARD MINIMUM AS SPECIFIED IN SECTION 5.2 TABLE D  
 C - SIDE YARD MINIMUM AS SPECIFIED IN SECTION 5.2 TABLE C