

CHAPTER 7

DEFINITIONS

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

section or provision of this or other ordinances, such reference shall be deemed to include the provision(s) or regulation(s) to which the reference is made.

7.02 DEFINITIONS. The following definitions shall apply in interpretation and enforcement of this Ordinance, unless otherwise specifically stated:

1. **ABUTTING.** Having a common border with, or being separated from such a border by a right-of-way, alley, or easement.
2. **ACCESSORY BUILDING OR STRUCTURE.** A subordinate building or structure having a use customarily incidental to and located on the lot occupied by the main building. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.
3. **ACCESSORY USE.** A structure or use that: a) is clearly incidental to and customarily found in connection with a principal building or use; b) is subordinate to and serves a principal building or use; c) is subordinate in area, extent, or purpose to the principal building or principal use served; d) contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building or principal use served; and e) is located on the same lot as the principal or use served.
4. **ADEQUATE PUBLIC FACILITIES.** Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the Governing Body based upon specific levels of service.
5. **ADMINISTRATIVE ASSISTANT TO THE PLANNING COMMISSION.** The officer appointed by the Governing Body to administer these regulations and to assist administratively other Boards and Commissions. The Executive Director of the Joint Columbia City/Whitley County Planning Department serves in this capacity. In his absence, the Building Inspector shall serve as Assistant Executive Director.
6. **ADVISORY.** Consultation with the Executive Director relative to

proposed subdivision as presented on sketch or rough draft prior to asking for a hearing before the Planning Commission.

7. **AFFORDABLE HOUSING.** Housing that is affordable to very low-income, or moderate-income person(s) for a period of not less than thirty (30) years through the use of a covenant or deed restriction, a development agreement, or by transferring an interest to a state or municipal housing agency or non-profit housing organization.
8. **AFFORDABLE UNIT.** A designated unit of affordable housing which is sold or rented to a household of very low, low, or moderate income.
9. **AGRICULTURAL DISTRICT.** The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities and shall not in any way constitute an independent commercial or industrial use. The operation of commercial feed lots or pens, sales yards, auction yards for cattle or hogs, and meat packing or food canning plants shall be deemed an industrial and not an agricultural use.
10. **AIRPORT.** An area of land or water that is used or intended to be used for the landing and take-off of aircraft, and including its buildings and facilities, if any.
11. **ALLEY.** A minor public or private right-of-way shown on a plat, providing secondary access to the rear or side of a lot, block, or parcel of land otherwise abutting a street.
12. **ALTERATION.** Any addition, removal, extension, or change in construction or occupancy of an existing building, structure, or plat.
13. **APARTMENT OR APARTMENT DWELLING.** A suite of rooms comprising a portion of a building (distinguished from a mobile home) as an independent dwelling for one family, while the remaining portion of the building is another dwelling, or other dwellings, or use other than dwelling, such as a business.
14. **APPELLANT.** An "appellant" refers to any person, firm, partner-

ship, corporation or other business organization, public official, head of any administrative department, or member of any public board which appeals a decision of the Administration or any building inspector of the building and zoning division.

15. **APPLICANT.** An "applicant" means any person, firm, partnership, corporation, or other business organization which applies to the Columbia City Board of Zoning Appeals or to the Columbia City Plan Commission for action, by said Board, Commission, thereby affecting that land.
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16. **AQUA CULTURE.** Land devoted to the hatching, raising, breeding of fish or aquatic plants or animals for sale or personal use.
17. **AQUIFER.** A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.
18. **AQUIFER RECHARGE AREA.** An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into ground water.
19. **ARTERIAL STREET.** A street intended to move through traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the City or the County; and/or as a route for traffic between communities; a major intra- or inter-city thoroughfare as designed by and shown on the Thoroughfare Plan.
20. **AS BUILT PLANS.** Construction plans revised to show a facility or structure as actually constructed and as it appears on the tract of land involved.
21. **ASSESSMENT DISTRICT.** See Public Facility Service Area.
22. **BASEMENT.** A floored and walled substructure of a building at least fifty (50) percent below the average finished grade of the building.
23. **BLOCK.** A tract of land bounded by streets, or by a combination

of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.

24. **BLUE SKY LAW.** A State Blue Sky Law regulates the sale of securities in order to protect the public from deceptive or fraudulent practices. In this instance the State "generally construed certain real estate transactions to be a security, when, as in federal law, there exists an overall scheme or plan in which money is invested with expectation that the investor will receive a return on the investment from the effort provided by a third party or promoter". (Ref. Model Subdivision Regulations, E 2, Robert H. Freilich; Michael M. Shultz, 1995, American Planning Association, Article 4 Page 141-142.)
25. **BOARD.** The Columbia City, Indiana Board of Zoning Appeals.
26. **BOARD OF COUNTY COMMISSIONERS.** The Whitley County, Indiana, Board of County Commissioners.
27. **BOND.** Any form of surety bond in an amount and form satisfactory to the Governing Body. All bonds shall be approved by the Governing Body whenever a bond is required by these regulations.
28. **BOULEVARD.** A boulevard is a broad, often landscaped, thoroughfare.
29. **BUFFER AREA.** A landscaped area intended to separate and partially or substantially obstruct the view of two adjacent land uses or properties from one another.
30. **BUILDING.** Any roofed structure built for the support, shelter, enclosure, or protection of persons, animals, chattels or moveable property of any kind (each part of such a structure that is separated from the rest by unbroken party, common, walls is considered to be a separate building for the purpose of this Ordinance.
31. **BUILDING AND ZONING INSPECTOR.** The person delegated by the local government to enforce the Zoning Ordinance and to act as Director in the absence of the Executive Director.
32. **BUILDING COVERAGE.** The portion of the lot area, expressed as a percent that is covered by the maximum horizontal cross-section

of a building or buildings.

33. **BUILDING HEIGHT.** The vertical distance measured from the adjoining curb grade to the highest point of the roof surface, if a flat roof; to the deck line of a mansard roof; and the mean height between eaves and ridge for a gable, hip, or gambrel roof. Where a building is set back from the street line, the height of the building shall be measured from the average elevation of the finished grade along the front of the building.
34. **BUILDING LINE OR SETBACK LINE.** A line parallel to a street right-of-way line, edge of a stream, or other property line established on a parcel of land or lot for the purpose of prohibiting construction of a building or structure in the area between such building line and right-of-way, stream bank, or other property line.
35. **BULK.** The term used to indicate the size and setback of building or structure and the location of same with respect to another building or structure or to a lot line and includes the following: size and height of building or structure; location of exterior walls of a building in relation to lot lines, other buildings, or to streets; the floor area of a building in relation to the area of the lot on which it is located; the open space allocated to a surrounding area of a building; and the amount of lot area per dwelling unit.
36. **CAPITAL IMPROVEMENT.** A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the local government.
37. **CAPITAL IMPROVEMENT PROGRAM.** A plan setting forth by category of public facilities those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years (10-20). Capital improvements program may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.
38. **CEMETERY.** Includes any columarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

39. **CENTRAL SEWAGE SYSTEM.** A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.
40. **CENTRAL WATER SYSTEM.** A private water company formed by a developer to serve new subdivision in an outlying area. It includes water treatment and distribution facilities.
41. **CERTIFY.** Whenever these regulations require an agency of official to certify the existence of some fact or circumstance, the municipality by administrative rule may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.
42. **CLASSIFICATION OF ROADS.** For the purpose of providing for the development of streets, highways, roads, and right-of-way in the governmental unit, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road, and right-of-way, and those located on approved and filed plats, have been designated on the Official Map of the local government and classified therein. The classification of each street, highway, road, and right-of-way is based upon its location in the respective zoning districts of the local government and its present and estimated future traffic volume and its relative importance and function as specified in the Master Plan of the local government. The required improvements shall be measured as set forth for each street classification on the Official Map.
43. **CLUSTER ZONING.** A technique which allows lots to be reduced in size and buildings sited closer together provided the total development density does not exceed that which could be constructed on the site under conventional zoning and the remaining land is utilized for open space or public purposes. See also Planned Unit Development (P.U.D.).
44. **COLLECTOR STREET/ROAD.** A street/road intended to move traffic from local roads to secondary arterials. A collector street/road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it. A local street/road which connects two collector roads may be designated a collector street/road at the discretion of the Planning Commission.

45. **COMMISSION.** The Columbia City Advisory Plan Commission.
46. **COMMON OWNERSHIP.** Ownership by the same person, corporation, firm, entity, partnership, or unincorporated associations, in which a stockbroker, partner or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.
47. **COMMUNITY IMPROVEMENT DISTRICT.** See Public Facility Service Area.
48. **CONCURRENCY.** Requirement that development applications demonstrate that adequate public facilities be available at prescribed levels of service concurrent with the impact or occupancy of development units.
49. **CONDOMINIUM.** Real estate lawfully subjected to IC 32-1-6 (the Horizontal Property Law) by the recordation of condominium instruments, in which undivided interests in the common area and facilities are vested in the condominium unit owners.
50. **CONSTRUCTION OF HOUSING BY A SPONSOR.**
Construction of housing units by an entity which includes the sponsor as a partner or joint venture, provided that the sponsor has general liability for the obligations of such entity. Construction of housing shall include rehabilitation or substandard, deteriorated units which:
- a. Are unsafe, unsanitary, or a danger to the health, safety, or welfare of an occupant.
 - b. Have a rehabilitation cost in excess of \$20,000 per unit; and
 - c. Have been occupied continuously for three years prior to commencement of construction to rehabilitate the units, except for those units owned and operated by a government agency or a nonprofit organization.
51. **CONSTRUCTION PLAN.** The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.

52. **CONTIGUOUS.** Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.
53. **COOPERATIVE.** An entire project which is under the common ownership of a Board of Directors with units leased and stock sold to individual cooperators.
54. **CORNER LOT.** A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees. A lot with streets abutting more than two (2) sides shall also be a corner lot.
55. **COUNTY.** Whitley County, Indiana.
56. **COVENANT.** Covenant as in Restrictive Covenant, is a "formal, solemn, and binding" agreement usually generated by the developer of a subdivision requiring certain obligations be met by those purchasing property from the developer or generated by an association to maintain certain community standards.
57. **CREDIT.** The amount of the reduction of an impact fee or fees, payments or charges for the same type capital improvement for which the fee has been charged.
58. **CROSSWALK.** A crosswalk is delineated area of a road, street, or parking lot which indicates by pavement marking or posted signs
- that
- vehicular traffic shall yield to pedestrians. Similar markings or signs may be used to reserve police parking or fire truck parking lanes or other emergency type vehicular uses.
59. **CUL-DE-SAC.** A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement for public safety vehicles and school buses.
60. **DEAD-END ROAD.** A road or portion of a road with one (1) vehicular-traffic outlet.
61. **DESIGN CRITERIA.** Standards that set forth specific improvement requirements.
62. **DESIGNATED UNIT.** A housing unit identified and reported to the Executive Director by the sponsor of the project wherein the

dwelling unit specified shall be affordable to households of low or moderate income for 20 years.

63. **DETACHED BUILDING.** A building that has no structural connection with another building.
64. **DEVELOPER.** The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations. See Subdivider.
65. **DEVELOPMENT AGREEMENT.** Agreement between the Governing Body and the developer through which the Governing Body agrees to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation in exchange for the provision of public facilities or amenities by the developer in excess of those required under current community regulations.
66. **DEVELOPMENT PLAN.** See Chapter 4 of these Subdivision regulations.
67. **DRIVEWAY.** A driveway is defined as the ingress/egress access point of a property.
68. **DWELLING.** A building or part of a building that is used primarily as a place of abode, but not including a hotel, motel, lodging house, boarding house, or tourist home.
69. **DWELLING UNIT.** A dwelling or part of a dwelling used by one family as a place of abode.
70. **EASEMENT.** An authorization grant made by a property owner for use by another entity, of any designated part of his property for a clearly specified purpose and officially recorded.
71. **ESCROW.** A deposit of cash with the local government or escrow agent to secure a promise until certain conditions are fulfilled.
72. **EXACTIONS.** Requirements of development to dedicate or pay for all or a portion of land or costs of public facilities as a condition of development approval.
73. **EXECUTIVE COMMITTEE.** A panel established by the

Planning Commission to provide technical services to the Planning Commission in the administration of this Ordinance.

74. **EXECUTIVE DIRECTOR.** The Executive Director has authority over the personnel and the interpretation of ordinances associated with the Planning Department.
75. **EXPENDITURE.** A sum of money paid out in return for some benefit or to fulfill some obligation. The term includes binding contractual commitments whether by development agreement or otherwise to make future expenditures as well as any other substantial change in position.
76. **EXPRESSWAY.** A street/road which is intended to have limited access on interregional routes. They are designed exclusively for unrestricted movement, have limited private access, and intersect only with selected arterial highways or major streets by means of interchanges whenever possible.
77. **EXTERNAL BUFFER.** A naturally vegetated area along the exterior boundaries of an entire development processed in accordance with a multi-phase or phased subdivision application which is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.
78. **FAIR SHARE.** A properly balanced and well-ordered plan to meet the housing needs of the community and the region.
79. **FAMILY.** One of more persons sharing meals and living as a single housekeeping unit.
80. **FARM.** An area used for agricultural operations, including truck gardening, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry. See Agricultural District and Agriculture.
81. **FINAL SUBDIVISION PLAT.** The map of a subdivision to be recorded with the County Auditor after approval by the Planning Commission and any accompanying material as described in these regulations.
82. **FLEXIBLE ZONING.** Zoning which permits uses of land and

density of buildings and structures different from those which are allowed as a right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, all special permits and special uses, planned unit developments, group housing projects, community unit projects and average density or density zoning projects.

83. **FLOOD HAZARD AREAS.** Those flood plains which have not been adequately protected from flooding caused by the regulatory flood, and are shown on the zoning map and/or the Flood Hazard or Floodway-Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Natural Resources Commission.
84. **FLOOD PLAIN.** The area adjoining the river or stream which has been or may hereafter be covered by flood water from the Regulatory Flood.
85. **FLOOD PROTECTION GRADE.** The elevation of the lowest floor of a building, including the basement, which shall be two (2) feet above the elevation of the Regulatory Flood.
86. **FLOODWAY.** See Regulatory Floodway.
87. **FLOODWAY FRINGE.** The portion of the flood plain lying outside the floodway, which is inundated by the Regulatory Flood.
88. **FLOOD ELEVATION.** The level that flood waters may reach within a 100-year period.
89. **FOUNDATION.** The supporting member of a wall or a structure.
90. **FRONT LINE.** With respect to a building, means the line marking the boundary between the lot and the abutting street or a lake or watercourse; and for a corner lot, means the line marking the boundary between the lot and the shorter of the two (2) abutting street segments, except as deed restrictions specify otherwise.
91. **FRONT LOT LINE.** Except as deed restrictions specify otherwise, an interior or through lot means the line marking the boundary between the lot and the abutting street or lake or watercourse; and on a corner lot it means the line marking the boundary between the

shorter of the two abutting street segments.

92. **FRONT YARD.** The horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The front yard of a corner lot shall be that yard abutting the street upon which the lot has its least frontage, except as deed restrictions specify otherwise.
93. **FRONTAGE.** That side of a lot abutting a street or way and ordinarily regarded as the front of the lot; but it shall not be considered as the ordinary side of a corner lot.
94. **FRONTAGE STREET.** Any street to be constructed by the developer or any existing street where development shall take place on both sides.
95. **GOVERNING BODY.** The body of the local government having the power to adopt ordinances.
96. **GRADE.** See Lot Ground Level.
97. **GRIDIRON PATTERNS.** A reference to standardized lots in a grid type pattern similar to a checkerboard.
98. **HARDSHIP.** A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of a restriction on economic gain shall not be considered hardships. Self-imposed situations include: The purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standard of this Ordinance; any results of land division requiring variance from the development standards of this Ordinance in order to that site buildable.
99. **HEALTH DEPARTMENT AND HEALTH OFFICER.** The agency and the person designated by the Governing Body to administer the health regulations of the local government.

100. **HEALTH, SAFETY, OR GENERAL WELFARE.** The purpose of which municipalities may adopt and enforce land use regulations for the prevention of harm or promotion of public benefit to the community; commonly referred to as police power.
101. **HOMEOWNERS ASSOCIATION.** See property Owners Association.
102. **HOUSING UNIT.** Dwelling unit as defined in City of Columbia City Code Chapter 152: Minimum Housing Standards.
103. **IMPACT FEE.** A fee imposed on new development by the local government pursuant to this Chapter in order to mitigate the impacts on community facilities created by the demand for capital improvements by the new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or for the construction of such improvements.
104. **IMPROVEMENT LOCATION PERMIT.** A document issued by this Ordinance permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land.
105. **IMPROVEMENTS.** See Lot Improvement or Public Improvement.
106. **INDIVIDUAL SEWAGE DISPOSAL SYSTEM.** A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.
107. **INDUSTRIAL USE.** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which some operations, other than transportation, are performed in open area.
108. **INFILL DEVELOPMENT.** Development designed to occupy scattered or vacant parcels of land which remain after the majority of development has occurred in an area.
109. **INTERESTED PARTIES.** Those parties who are owners of properties adjoining or adjacent to the property under consideration.
110. **INTERIOR LOT.** A lot other than a corner lot or a through lot.

111. **LANDFILL.** A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environment hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.
112. **LANDSCAPING.** Acting with the purpose of meeting specific criteria regarding uses of outside space, including ground cover, buffers, and shade trees.
113. **LETTER OF INTENT.** A document guaranteeing that a task will be performed at a given time and place.
114. **LIGHT INDUSTRIAL USE.** Manufacturing, processing extraction, heavy repairing, disposal of equipment, raw materials, manufacture products or waste, in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed.
115. **LIMITED ACCESS HIGHWAY.** A freeway or expressway providing a traffic way for through traffic in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over the traffic way.
116. **LINKAGE.** A program that requires developers constructing non-residential structures to either construct affordable housing units or pay money in lieu of construction into a designated fund to provide housing for future employees of the site.
117. **LOCAL GOVERNMENT.** The municipality of the City of Columbia City for incorporated area or Whitley County for the unincorporated area of the county.
118. **LOCAL GOVERNMENT ATTORNEY.** The licensed attorney designated by the Governing Body to furnish legal assistance for the administration of these regulations.
119. **LOCAL GOVERNMENT ENGINEER.** The licensed engineer designated by the Governing Body to furnish engineering assistance for the administration of these regulations.

120. **LOCAL ROAD/STREET.** A road/street whose sole function is to provide access to abutting properties and to other roads from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes when needed.
121. **LOT.** A tract, or portion of a subdivision or other parcel of land intended as a unit for the purpose whether immediate or future, of transfer of ownership or of building development.
122. **LOT COVERAGE.** The percentage of the lot area that is represented by the building area.
123. **LOT GROUND LEVEL.** Lot ground level is determined from three aspects, as follows:
- a. For a building having walls abutting (that is, generally parallel to and not more than five feet from) one street only, means the elevation of the sidewalk at the center of the wall abutting the street.
 - b. For a building having walls on more than one means the average of the elevation of the sidewalks at the center of all of the walls that face streets; and
 - c. For a building having no wall abutting a street means the average level of the ground adjacent to the exterior walls of the building.
124. **LOT WIDTH.** The distance between the side lot lines as measured on the building line.
125. **MAJOR SUBDIVISION.** A major subdivision is one which requires new streets and/or extensions of existing streets and also substantially affects other local governmental facilities or causes the creation of any public improvements. Major subdivisions require the preparation of an Advisory Plat, a Preliminary Plat, and a Secondary (Final) Plat.
126. **MASTER PLAN.** A comprehensive plan for development of the local government prepared and adopted by the Planning Commission, pursuant to State law, and including any part of such plan separately adopted and any amendments to such plan, or parts

thereof.

127. **MASTER PRELIMINARY PLAT.** That portion of a preliminary plat submitted in connection with a multiphase or phased subdivision application which provides the information and graphics meeting the requirements of this Ordinance for the purpose of implementing an integrated development scheme for all phases of the proposed subdivision.
128. **MINERAL EXTRACTION.** Mining and quarrying; and removal of earth materials.
129. **MINOR SUBDIVISION.** A minor subdivision does not require new streets or extensions of existing streets or additions to municipal facilities or the creation of any public improvements and is not in conflict with any provisions or portion of the Master Plan, Official Map, Zoning Ordinance or these regulations. Minor subdivisions require the preparation of a Preliminary Plat and a Secondary Plat.
130. **MODIFIED FRONTAGE ROAD.** See Portage Driving Lane.
131. **MONEY IN LIEU OF LAND.** Payment of money into a municipally earmarked fund to provide for acquisition of facilities off-site in place of dedicating land or providing such facility on-site.
132. **MUNICIPALITY.** See Local Government.
133. **NEIGHBORHOOD PARK AND RECREATION IMPROVEMENT FUND.** A special fund established by the Governing Body to retain moneys contributed by developers in accordance with the "money in lieu of land" provisions of these regulations.
134. **NEW DEVELOPMENT.** A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of land; any of which has the effect of increasing the requirements for capital improvements, measured by number of service units to be generated by such activity, and which requires either the approval of a plat pursuant to the City's subdivision regulations, the issuance of a building permit, or connection to the

City's water or sanitary sewer system.

135. **NON-CONFORMING USE.** A building, structure or use of land existing at the time of enactment of this Ordinance, which does not conform to the regulations of the district in which it is situated.
136. **NONRESIDENTIAL SUBDIVISION.** A subdivision whose intended use is other than residential, such as commercial or industrial.
137. **NOTICE OF NONCOMPLIANCE.** A notice issued by the Executive Director of the Planning Commission informing the applicant for approval of a major subdivision that the Advisory Plat is not in compliance with these regulations and that the Applicant may not apply for preliminary plat approval.
138. **NOTICE TO PROCEED.** A notice issued by the Executive Director of the Planning Department informing the Applicant for approval of a major subdivision that the Advisory Plat is in compliance with these regulations and that the applicant may proceed to apply for preliminary plat approval.
139. **OCCUPIED SPACE.** The total area of each horizontally covered by the structure, excluding garages, patios and porches and other accessory structures.
140. **OFFSET.** The amount of the reduction of an impact fee designed to fairly reflect the value of area-related facilities or other oversized facilities pursuant to the rules herein established or administrative guidelines, provided by a developer pursuant to the local government's subdivision or zoning regulations or requirements.
141. **OFF-SITE.** Any premises not located within the area of the property to be subdivided, whether or not in the common ownership of the applicant for subdivision approval.
142. **OFFICE DEVELOPMENT PROJECT.** Any new construction addition extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of office space.
143. **OFFICIAL MAP.** The map established by the Governing Body

pursuant to law showing the streets, highways, parks, drainage systems, and setback lines laid out, adopted, and established by law, and any amendments or additions to be adopted, by the Governing Body resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of approved plats.

144. **OFFICIAL MASTER PLAN.** See Master Plan.
145. **OPEN USE.** The use of a lot without a building, or a use for which a building with a floor area no larger than five (5) percent of the lot area is only incidental.
146. **ORDINANCE.** Any legislative action, however determined, of a local government which has the force of law, including any amendment or repeal of any ordinance.
147. **OWNED UNIT.** A designated unit which is a condominium, villaminium, stock cooperative, or community apartment.
148. **OWNER.** The record owners of the fee or a vender in possession, including 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 the definition of SAME OWNERSHIP.
149. **PERFORMANCE CRITERIA.** Regulation of development based on open space ration, impervious surface ratio, density, and floor area ratio.
150. **PERFORMANCE GUARANTEE.** A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and the approved plans and specifications of a development.
151. **PERMIT.** A written assertion that specific requirements have been met and giving authority to perform certain activity, as in, Building Permit--authorization to build a structure.
152. **PERSON.** A corporation, firm, partnership, association organization, unit of government, or any other group, or entity that acts as a unit, as well as a natural person.

- 153. PHASED SUBDIVISION APPLICATION.** An application for subdivision approval pursuant to a Master Preliminary Plat, or at the option of the subdivider, pursuant to a specific plan in which the applicant proposes to immediately subdivide the property but will develop in one or more individual phases(s) over a period of time. A phased subdivision application may include an application for approval of, or conversion to, horizontal or vertical condominiums, nonresidential development projects, planned unit development projects, planned unit developments, mixed-use projects, and residential developments.
- 154. PIPE-STEM LOT.** Pipe stem lots are defined as those lots far removed from a public street or road due to natural impediments, therefore requiring an access road to reach the building area.
- 155. PLANNED UNIT DEVELOPMENT.** A Planned Unit Development (P.U.D.) is constructed on a tract of minimum size under single ownership, planned and developed as an integral unit consisting of a combination of residential and/or nonresidential uses of the land.
- 156. PLANNING COMMISSION.** The local government's Planning Commission established in accordance with the law.
- 157. PLAT.** A map indicating the subdivision, or resubdivision of land, filed or intended to be filed, for record with the County Recorder.
- 158. POLICE POWER.** Inherent, delegated, or authorized legislative power for purposes of regulation to secure health, safety, and general welfare.
- 159. PORTAGE DRIVING LANE.** A driving lane for two-way traffic within five (5) feet of the property line of large parking lots whose purpose is to provide uninterrupted flow of traffic from one section of a large shopping center to another portion without interference with the flow of pedestrian traffic.
- 160. PRELIMINARY PLAT.** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning

Commission

for approval.

161. **PRIMARY ARTERIAL.** A street/road intended to move through traffic to and from major attractions such as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas and/or which carries high volumes of traffic.
162. **PRINCIPAL BUILDING.** A building in which the principal use of the lot or parcel on which it is located is conducted. Standards recognized by the Indiana Department of Fire Prevention and Building Safety shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.
163. **PRIVATE DRIVES.** Vehicular street and driveways, paved or unpaved, which are wholly within private property except where they interact with public streets within public right-of-ways.
164. **PROJECT AREA EQUATION FOR PLANNED UNIT DEVELOPMENT.** The Residential Project Area (R.P.A.) of a Planned Unit Development (P.U.D.) is the area remaining after the land allocated to specific non-project uses, such as schools and churches, has been subtracted from the Gross Project Area (G.P.A.).
165. **PROPERTY OWNERS ASSOCIATION.** An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision, be it a lot, parcel site, unit plot condominium, villaminium, or any interest, is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, villaminium, or other interest of the member.
166. **PUBLIC FACILITY.** A public facility which may require an impact fee are those facilities which may need expansion, modification, or upgrading of sewerage systems, roads, water systems, and similar items which may be affected as a direct result of development by developers. (Categories should be enumerated and specific action necessitating the impact fee should be spelled out.)

167. PUBLIC FACILITY IMPACT FEE. An impact fee to be imposed and collected. (Identify category of public facility and define for each category for which a fee is to be charged.

168. PUBLIC FACILITIES PROJECT. Any and all improvements, the need for which is directly or indirectly generated by development, including but not limited to the following:

- a. Water mains, pipes, conduits, tunnels, hydrants, and other necessary works and appliances for providing water service.
- b. Lines, conduits, and other necessary works and appliances for providing electric power service.
- c. Mains, pipes, and other necessary works and appliances for providing gas service.
- d. Poles, posts, wires, pipes, conduits, lamps, and other necessary works and appliances for lighting purposes.
- e. Sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, culverts, bridges, curbs, gutters, tunnels, subways, or viaducts, parks and parkways, recreation areas including all structures, buildings, and other facilities, necessary to make parks and parkways and recreation areas useful for the purpose for which it is intended.
- f. Sanitary sewers or instrumentals of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers ditches, drains, conduits, tunnels, channels, or other appurtenances.
- g. Storm drainage systems or instrumentality with necessary components to make the system viable.
- h. Drains, tunnels, sewers, conduits, culverts and channels for drainage purposes, with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plant, connecting sewers, ditches, drains, conduits, channels and appurtenances.
- i. Breakwaters, levees, bulkheads, walls of rock, or other

material to protect the streets, places, public ways, and other property from overflow by water, or to prevent beach erosion or to promote accretion of beaches.

- j.** Retaining walls, embankments, buildings, and other structures or facilities necessary or suitable in connection with any of the work mentioned in this section.
- k.** Compaction of land, change of grade or contours, construction caissons, retaining walls, drains, and other structures suitable for the purpose of stabilizing land.
- l.** Works, systems, or facilities, for the transportation of people, including rolling stock and other equipment appurtenant thereto.
- m.** All other work auxiliary to that described in subparagraph 12 which may be required to carry out that work, including terminal and intermediate stations, structures, platforms, or other facilities which may be necessary for the loading of people into and unloading of people from such transportation facilities.
- n.** The grading or regrading, the paving or repaving, the
planking
or replanking, the macadamizing or re-macadamizing, the graveling or the regravelling, and the oiling and re-oiling of streets.
- o.** Acquisition, construction, improvement, and equipping of temporary and permanent school buildings.
- p.** Acquisition, construction, improvement, and equipping of fire stations.
- q.** Acquisition, construction, improvement and equipping of police stations.
- r.** Acquisition, construction, and installation of traffic signs, signals, lights, and lighting.
- s.** Public works maintenance facilities.

- t. All other work auxiliary to any of the above which may be required to carry out that work including, but not limited to, the maintenance of Public Facilities Projects and administrative, engineering, architectural, and legal work performed in connection with establishing, implementing, and monitoring Public Facilities Projects.
- u. Acquisition of any and all property, easements, and right-of-ways which may be required to carry out the purposes of the project.

169. PUBLIC FACILITY SERVICE AREA. The service area (identify category of public facility and define for each category for which a fee is to be charged).

170. PUBLIC HEARING. An adjudicatory proceeding held by the Planning Commission preceded by published notice and actual notice to certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. Witnesses shall be sworn in and subject to cross-examination. The rules of civil procedure binding on the courts shall not, however, bind the Planning Commission.

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

172. PUBLIC MEETING. A meeting of the Planning Commission or Governing Body preceded by notice, open to the public and at which the public may, at the discretion of the body holding the public meeting, be heard.

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

174. **RECOUPMENT.** The imposition of an impact fee to reimburse the local government for capital improvements previously over-sized to serve the new development.
175. **REGISTERED ENGINEER.** An engineer properly licensed and registered with the State.
176. **REGISTERED LAND SURVEYOR.** A land surveyor properly licensed and registered in the State.
177. **REGULATORY FLOOD.** That flood having a peak discharge which can be equaled or exceeded on the average of one 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.
178. **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 significant volumes of stored water during the occurrence of the regulatory flood.
179. **RESUBDIVISION.** Any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.
180. **RIGHT-OF-WAY.** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way here-after established and shown on final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-ways intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

181. **RIGHT-OF-WAY.** (R.O.W.) The R.O.W. shall be that actual road R.O.W. or the proposed R.O.W. as indicated on the City of Columbia City Comprehensive Plan and/or set forth in the Columbia City's Subdivision Ordinance.
182. **ROAD.** A road or street is an area set aside for vehicular or pedestrian use in traveling from one place to another place. See Classification of Roads for more details. See also road or street by modifiers such as Dead-End Road, Limited Access Road (or Highway, etc.).
183. **ROAD RIGHT-OF-WAY.** The distance between property lines measured at right angles to the centerline of the road.
184. **ROAD SURFACE.** Road surface (pavement) is defined as the area between the inner edge of the curb and gutter or berm e.g. the traveled portion of the road/street.
185. **SALE OR LEASE.** Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or other transfer of interest in a subdivision or part thereof, whether by metes and bounds or lot and block description.
186. **SCREENING.** Either (a) a strip at least ten (10) feet wide or densely planed (or having equivalent natural growth) shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year-round dense screen at least six (6 ft.) high; or an opaque wall or barrier or uniformly painted fence at least six (6) feet high.
187. **SECONDARY APPROVAL.** Final approval of a plat said approval may be delegated to the Executive Director.
188. **SECONDARY ARTERIAL.** A road intended to collect and distribute traffic in a manner similar to primary arterials., except that these roads service minor traffic-generating areas such as community commercial areas, primary and secondary educational facilities, hospitals, major recreational areas, churches, and are designed to carry traffic from collector streets to the system of primary arterials.
189. **SECURITY.** The letter of credit or cash escrow provided by the applicant to secure its promises in the subdivision improvement

agreement.

190. **SERVICE AREA.** The area for a particular category of public facilities within the jurisdiction of the local government and within which impact fees for capital improvements will be collected for new development occurring within such area and within those types of improvements for that category of public facility identified in the public facility improvements program. Service areas may be subdivided into sub-areas for purpose of assuring that impact fees collected and expended therein reasonably benefit new development within such areas.
191. **SERVICE UNIT.** Either (identify, collectively, each category of public facility for which an impact fee is to be charged), which is the standardized measure of consumption, use, or generation attributable to a new unit of development for that category of public facility and which is set forth in the impact fee schedule for that category of public facility.
192. **SETBACK.** A line parallel to an equidistant from the relevant lot line (front, back, side) between which no building may be erected as prescribed in this Ordinance.
193. **SHADE TREE.** A tree in public place, street, special easement, or right-of-way adjoining a street as provided in these regulations.
194. **SIDE LOT LINE.** Any lines separating two lots other than front or rear lot lines.
195. **SIDE YARD.** The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building and open lattice-enclosed fire escape, fireproof outside stairways and balconies projecting not more than twenty-four (24) inches into that space.
196. **SHOPPING CENTER.** A building containing four (4) or more shops, stores, and other places of business, and providing off-street parking facilities in common for all of the businesses and their customers.

- 197. SIGHT DRAFT.** A sight-draft is a written document which contains information similar to those considerations found in an affidavit or Credit Statement.
- 198. SITE PLAN.** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principle site development features proposed for a specific parcel of land.
- 199. SITE-RELATED FACILITY.** An improvement or facility which is for the primary use or benefit of a new development and/or which is not for the primary purpose of safe and adequate provision (identify categories of public facilities for which an impact fee is to be charged) to serve the new development and which is not included in the capital improvements program and for which the developer or property owner is solely responsible under subdivision or other applicable regulations.
- 200. SPECIAL EXCEPTION.** The authorization of a building, structure, or use that is not designed as a permitted use within a district, but if specifically listed may be permitted if it meets special conditions, and upon application, is specifically authorized by the Columbia City Board of Zoning Appeals (B.Z.A.).
- 201. SPECIFIC PLAN.** A document encompassing a specific geographical area of the local government which is prepared for the purpose of specifically implementing the local government comprehensive plan to a specific geographic area by (1) refining the policies of the comprehensive plan; (2) containing specific recommendation as to the detailed policies and regulations applicable to a focused development scheme. The specific plan shall consist of goals, objectives, and policies; requirements for capital improvements; the level of service required for public facilities, physical and environmental conditions; housing and land use characteristics of the area; and maps, diagrams, and other appropriate materials showing existing and future conditions.
- 202. SPONSOR.** An applicant seeking approval for construction of an office development project subject to these regulations, such applicant's successors and assigns, and/or any entity which controls or is under common control with such applicant.
- 203. STREET.** See Road.

- 204. STREET TRENCH.** A street trench is a temporary excavation which is necessary for sub-surface repair or installation.
- 205. STRUCTURE.** Anything constructed or erected that requires location on or in the ground or attachments to something having a location on or in the ground.
- 206. STUB-STREET.** The stub-street is a short street which provides a temporary continuation of an existing street or the beginning of a new street when future development takes place. Its length shall not be more than two-hundred (200) feet or no more than the length of the lot it abuts.
- 207. SUBDIVIDE.** The act or process of creating a subdivision.
- 208. SUBDIVIDER.** Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or otherwise advertises to sell lease, or develop any inserts, lot, parcel site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.
- 209. SUBDIVISION.** See Major Subdivision or Minor Subdivision.
- 210. SUBDIVISION AGENT.** Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing any interest, lot, parcel, unit, site, or offering to sell, lease, or develop any lot, parcel, unit site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.
- 211. SUBDIVISION IMPROVEMENT AGREEMENT.** A contract entered into by the applicant and the Planning Commission on behalf of the municipality by which the applicant promises to complete the required public improvements within the subdivision within a specified time period following final subdivision plat approval.
- 212. SUBDIVISION PLAT.** The final map or drawing, described in these regulations, on which the sub divider's plan of subdivision is

presented to the Planning Commission for approval and which, if approved, may be submitted to the County Clerk or Recorder for filing.

213. **TEMPORARY IMPROVEMENT.** Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the Performance Bond. The agreement includes also the maintenance, and the removal of said improvements.
214. **THROUGH LOT.** A lot fronting on two parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.
215. **TRACT.** A lot. The term "tract" is used interchangeably with the term "lot", particularly in the context, or subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominiums, villaminiums, tracts, or interests.
216. **TRANSFER OF DEVELOPMENT RIGHTS.** The conveyance of development rights by deed, easement, or other legal instrument, authorized by ordinance or regulation, to another parcel of land and the recording of that procedure.
217. **TURNAROUND.** A turnaround is a permanent or temporary circular area which provides for vehicular change of direction in a cul-de-sac or at the end of a street under construction or reserved for extension of a street at some future date.
218. **UNIT SHOPPING CENTER.** A Unit Shopping Center consists of less than four (4) business establishments utilizing on street parking or limited on lot parking.
219. **USE.** The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.
220. **USE TO USE RELATIONSHIP.** Focusing on the unique aspects of established, newly developed and redeveloping neighborhoods, and commercial/industrial areas in order to achieve improved compatibility and fit for infill development projects and at the same time assist in the preservation and conservation of sable existing neighborhoods and commercial areas.

- 221. VESTED RIGHTS.** Right to initiate or continue the establishment of a use which is contrary to a restriction or regulation coming into effect when the project associated with the use is completed.
- 222. VILLAMINIUM.** A villaminium structure is one wherein both the lot and the structure are owned by the property owner but exterior maintenance of the lot and structure is done by an organization charging a sliding scale monthly amount depending on various factors.
- 223. YARD.** A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this Ordinance.
- 224. ZONING ORDINANCE.** The Columbia City Zoning Ordinance has as its purpose the regulation and control of the zoning of land and the consequent use of said land within the City of Columbia City, Indiana and its jurisdictional area.