

Part I
Article II

DEFINITIONS

Section 200

For the purpose of this Ordinance, certain terms are defined in this Section. When not inconsistent with the context, words used in the present tense include the future tense, words in singular number include the plural number, and words in the plural number include the singular number. The word "shall" is always mandatory and not merely directory. The term "person" shall mean an individual, partnership, corporation or other association or their agents. Terms not defined in this Section shall have the meanings customarily assigned to them.

ACCESSORY BUILDING OR USE: A building or use which:

1. Is subordinate to and serves a principal building or principal use.
2. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served.
3. Is subordinate in area, extent or purpose to the principal building or principal use served.
4. Is located on the same lot as the principal use or structure served, with the exception of accessory off-street parking facilities as are permitted elsewhere than on the same lot with the use or structure.

ACREAGE: Any tract or parcel of land which has not heretofore been subdivided or platted.

AGRICULTURE: Land, or land and structures, the principal uses of which are the growing of farm or truck garden crops and one more of the following: dairy farming, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry activities, including the farm dwellings or lodging for permanent or seasonal workers.

AIRCRAFT: Any contrivance, now known or hereafter invented for use in or designed for navigation of or flight in the air.

AIRPORT: Any area of land or water which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

ALLEY: Any dedicated public way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

ALTERATION OR REMODELING: Any change in the structural members, stairways, basic construction, type, kind, or class of occupancy, light or ventilation, means of egress and ingress, or any other change of an existing building or structure affecting or regulated by the Building Code of this Ordinance, except for minor repairs or changes not involving any of the aforesaid provisions.

ANIMAL HOSPITAL: A structure or portion thereof designed or used for the care, observation or treatment of domestic animals.

APARTMENT: A part of a building consisting of a room or suite of rooms intended, designed, or used as a complete housekeeping unit.

APARTMENT HOUSE: A residential structure containing three (3) or more apartments.

ARCHITECTURAL FEATURES: Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

AUDITORIUM: A room or building made a part of a church, theater, school, recreation building or other buildings assigned to the gathering of people as an audience to hear lectures, plays and other presentations.

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 painting of vehicles.

AUTO REPAIR (MINOR): Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under "Auto Repair (Major)".

AUTOMOBILE AND TRAILER SALES AREA: An open or enclosed area other than a street used for the display or sale of new or used automobiles or trailers; and where no repair work is done except for minor incidental repair of automobiles or trailers to be displayed or sold on the premises.

AUTOMOBILE WASH ESTABLISHMENT: A building, or portion thereof, the primary purpose of which is the washing of motor vehicles.

BASEMENT: The lowest story of a building, below the main floor and wholly or partially lower than the surface of the ground. A basement may be occupied as a dwelling unit only if it meets the requirements of the One and Two-Family Dwelling Code.

BLOCK: A tract of land bounded on all sides by any of the following: a) streets, b) public parks, c) railroad rights-of-way, when located at or above ground level but not including sidings or spurs in same ownership as the zoning lot, d) corporate boundary lines of the City of Valparaiso.

BLOCK FRONT: All of the property on one side of a street and lying between the two nearest intersecting streets, or between one intersecting street and a railroad right-of-way, unsubdivided acreage, river, or lake; or between any of the foregoing or any other barrier to the continuity of development.

BOARD: Board of Zoning Appeals of the City of Valparaiso.

BOARDING HOUSE/BED AND BREAKFAST INN: Single dwelling unit, owner-occupied, with one cooking facility, and five or less rentable guest rooms.

BUILDING: Any structure, either temporary or permanent, for the shelter, support or enclosure of persons, animals, or property. Tents, awnings, or vehicles situated on private property and used for purposes of a building shall also be considered a building. When any portion of a structure is completely separated from every other part thereof by division walls from the ground up, and without openings, each such portion of such structure shall be deemed a separate building.

BUILDABLE AREA: The space remaining on a lot after the minimum open space requirements of this Ordinance have been complied with.

BUILDING COVERAGE: The area on a lot occupied by buildings and structures including accessory buildings.

BUILDING LINE: A line established, in general, parallel to the front lot line or right-of-way line, beyond which no part of a building shall project, except as otherwise provided in this Ordinance.

BUILDING, MAIN OR PRINCIPAL: A building in which is conducted the principal use of the lot on which it is situated.

BULK: A term used to indicate the size and setbacks of buildings or structures and location of same with respect to one another, and including the following:

1. Size and height of buildings.
2. Location of exterior walls at all levels in relation to lot lines.
3. Gross floor area of buildings in relation to lot lines, streets and other buildings.
4. All open spaces allocated to the buildings.
5. Amount of lot area per dwelling unit.
6. Required parking areas.

CANOPY: A structure, other than an awning, made of cloth, metal or other material with frames attached to a building and carried by a frame supported by the ground or sidewalk.

CAPACITY IN PERSONS: Of an establishment or use in the maximum number of persons that can avail themselves of the service or goods of such establishment, at any time, with reasonable safety and comfort, as determined by the Building Code.

CARPORT: A partially enclosed structure principally devoted to the storage of motor vehicles.

CELLAR: A room or group of rooms totally below the ground and usually under a building. A cellar may be occupied as a dwelling unit only if it meets the requirements for dwelling units as set forth in the One and Two-Family Dwelling Code.

CEMETERY: Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery for which perpetual care and maintenance is provided. No cemeteries will be permitted in any district except by Special Exception. In addition, if a request for a Special Exception is granted for a cemetery and the request does not specifically include crematories, mausoleums or mortuaries, then these uses shall not be permitted without first requesting an additional Special Exception.

CHANGE OF USE: A change of any occupancy classification as defined in the **Indiana Uniform Building Code**.

CHILDREN'S HOME: A facility for the care of children under the age of 18 that provides meals and lodging. Said home shall conform and qualify for license under State law. Said home does not include foster family homes.

CLINIC - MEDICAL OR DENTAL: A building or portion thereof, the principal use of which is for offices of physicians or dentists or both, for the examination and treatment of persons on an out-patient basis.

CLUB: A non-profit association of persons who are bona fide members, paying dues, which owns or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

CLUB OR LODGE/PRIVATE: A non-profit association of persons who are bona fide members, paying dues, which owns or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

COMMISSION: The Valparaiso Plan Commission.

COMPREHENSIVE PLAN: The Comprehensive Plan for the City of Valparaiso, as amended, showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, parks, schools, transportation corridors, and other community facilities, and which describes the community's goals, objectives, and policies for future growth and development of the City.

CONDOMINIUM: A condominium is an ownership arrangement, not a land use; therefore, it is allowed in any district and under the same restrictions as the residential use that comprises it. A condominium is a dwelling unit that is owned by the occupant, and all or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with the Horizontal Property Law of the State of Indiana.

CONFORMING STRUCTURE. A structure which: 1) complies with all the regulations of this Ordinance or of any amendment thereto governing bulk of the district in which said structure is located; or 2) is designed or intended for a permitted or special use as allowed in the district in which it is located.

CONVALESCENT OR NURSING HOME: A home for the care of the aged or physically or mentally disabled, wherein two or more persons are cared for, but not including hospitals or clinics. Said home shall conform and qualify for license under State laws even though State laws may not apply to such home because the number of persons cared for as specified in this definition is less than the number set forth in the State Statutes.

COOPERATIVE HOUSEHOLD: Single dwelling unit, NOT owner-occupied, with one cooking facility, and five or less non-related residents.

CURB LEVEL: The level of the established curb in front of a building or structure measured at the center of such front. Where no curb level has been established, it shall be deemed to be the established level of the center line of the street surface in front of a building or structure, measured at the center line of such front.

DECIBEL: A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

DETENTION POND: A natural or artificial stormwater storage area that is designed and maintained to temporarily contain water only when excess stormwater run-off occurs. Also known as a dry-bottom stormwater storage area.

DEVELOPMENT: Any man-made change to improved or unimproved real estate including but not limited to construction, reconstruction, addition to a building, manufactured home, installation of utilities, walls, fences, roads or similar projects; construction of flood control structures; mining, dredging, filling, grading, excavation or drilling; storage of materials; or any other activity that might change the direction, height, or velocity of flood or surface waters.

DISPENSING DEVICE: Any mechanically or manually operated device for the dispensing of merchandise such as, but not limited to, soft drinks, milk, ice, candy, cigarettes or other items.

DISTRICT: A portion of the City of Valparaiso within which uses of land and buildings are permitted and wherein regulations and requirements apply under the provisions of this Ordinance on a uniform basis.

DORMITORY: A residence hall providing sleeping rooms owned and operated by a college, university, or other educational institution devoted exclusively for occupancy by persons enrolled in said institution and for adult supervisors employed by the institution.

DRIVE-IN: Any establishment that has parking space specifically for consumers to purchase and consume food and/or beverages in a motor vehicle parked on the premises.

DRIVE-THROUGH: Any establishment which includes a specific traffic lane for services that are extended directly to consumers located in a motor vehicle which is usually left running during business transactions.

DWELLING UNIT: Any building or portion thereof having cooking facilities, which is used or designed as a discrete habitable unit. However, in no case shall a mobile home, manufactured home other than Type I, automobile chassis, or tent be considered a dwelling unit. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the parts so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relating to dwellings.

- Dwelling, Multiple - a building or portion thereof, used or designed for three or more dwelling units or occupied by five or more unrelated persons.
- Dwelling, Row House or Townhouse - a row of three or more attached dwelling units, not more than two and one-half stories in height, each dwelling having its own front and rear yards and entrances.
- Dwelling, Single Family - a single unit dwelling occupied exclusively by one family.
- Dwelling, Single Unit - a detached building used or designed for not more than one dwelling unit.
- Dwelling, Two Family - a two unit dwelling occupied by two families.
- Dwelling, Two Unit - a detached building used or designed for two units.

EASEMENT: An authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

EFFICIENCY UNIT: A dwelling unit consisting of one principal room, other than the bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, provided such dwelling unit shall contain not less than three hundred (300) square feet of floor space.

ERECTED: The word "erected" shall include the words built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Building excavations, fill, drainage, and the like shall be considered a part of erection.

EROSION: The wearing away of the land surface by the action of wind, water or gravity.

ESSENTIAL SERVICES: The erection or maintenance by public utilities, municipal departments or commissions, of underground, surface or overhead gas, communication, electrical, steam, fuel, or water transmission or distribution systems, collection, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare.

EXCAVATING: The removal of sand, stone, gravel, or fill dirt below the average elevation of the surrounding land or established grade.

FAMILY: One or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, and occupying the whole or part of a dwelling unit as a single housekeeping unit. A family shall be deemed to include domestic servants, and not more than three boarded minor children. Notwithstanding the definition in the preceding paragraph, a family shall be deemed to include four or more persons not within the second degree of kinship occupying a dwelling unit and living as a single, housekeeping unit, if said occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

FENCE: A structure which is a barrier and used as a boundary or means of protection or confinement.

FILLING: The depositing or dumping of any matter onto, or into the ground, except such as is related to common household gardening.

FLOOD OR FLOODWATER: The water of any lake or watercourse which is above the banks and/or outside the channel and banks of such watercourse. See Regulatory Flood.

FLOOD CONTROL: The prevention of floods, the control, regulation, diversion, or confinement of floodwater of 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 hereby.

FLOOD HAZARD AREA: Any floodplain or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs, or other works approved by the Indiana Natural Resources Commission.

FLOOD PROTECTION GRADE: The elevation of the lowest point around the perimeter of a building at which floodwater may enter the interior of the building.

FLOOD PROOFED BUILDING: A commercial or industrial building designed to exclude floodwaters from the interior of that building. All such flood proofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the regulatory flood.

FLOODPLAIN: The relatively flat area or low land adjoining the channel of a river or stream, which has been or may be covered by floodwater. The floodplain includes the channel, floodway, and floodway fringe.

FLOODWAY: The channel of the stream or body of water and that portion of floodplain that is inundated by a flood and used to carry the flood flow. The Floodway District is that area designated as a "regulatory floodway" by the Indiana Department of Natural Resources.

FLOODWAY FRINGE: Those portions of the flood hazard area lying outside the floodway. The Floodway Fringe District is that portion of the flood hazard area lying outside the Floodway District.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The floor area of a building shall include basement floor area, elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of seven (7) feet, ten (10) inches or more, interior balconies, and mezzanines. Any space devoted to off-street parking or loading shall not be included in the measure of floor area.

FLOOR AREA RATIO: The numerical value obtained through dividing the gross floor area of a building or buildings by the net lot area on which such building or buildings is located.

FRATERNITIES/SORORITIES: An incorporated organization of persons which provides sleeping accommodations with or without accessory common rooms and cooking and eating facilities, for groups of unmarried students in attendance at an educational institution.

GARAGE, COMMERCIAL: Any building except those described as a private, community, or storage garage, available to the public and used principally for the storage of automobiles or motor-driven vehicles, for remuneration, hire or sale, where any such vehicles or engines may also be equipped for operation, repaired, rebuilt or reconstructed, and where vehicles may be greased, washed or serviced.

GARAGE, PRIVATE: A detached accessory building or portion of a main building, used for the storage of self-propelled vehicles for the use of the occupants of the lot on which said garage is located and with a capacity of not more than three (3) motor vehicles. Definition includes storage on any one lot, for the occupants thereof, of not more than one commercial vehicle not exceeding a rated capacity of three-fourth (3/4) ton.

GARAGE, STORAGE: A building, except a private garage, used exclusively for the storage of self-propelled vehicles, and where such vehicles are not repaired or otherwise serviced or cared for.

GASOLINE DISPENSING AND SERVICE STATION: A gasoline dispensing and service station is a building or structure designed or used for the retail sale or supply of fuels and where gasoline or other volatile flammable liquids or liquefied flammable gases are transferred to fuel tanks (including auxiliary fuel tanks) of self-propelled vehicles.

GREEN SPACE: Green space is that portion of the surface area of a lot or parcel covered by woody, herbaceous, or aqueous material.

GRADE OR AVERAGE GROUND LEVEL: The established grade shall be the average elevation of the finished ground surface adjacent to the walls or foundation of the principal building on a lot.

GREENBELT OR BUFFER STRIP A strip of land of definite width and location, planted with shrubs and/or trees to serve as an obscuring screen or buffer.

GROUP HOME: Group Home for the Developmentally Disabled person: A dwelling unit regulated and licensed by the appropriate state agencies, housing not more than eight (8) developmentally disabled individuals who will be supervised at all times by qualified staff. The home shall provide at least 300 square feet of usable floor space for each resident, at least 1,000 square feet of outdoor recreation area and shall provide parking spaces in accordance with the requirements of the specific zoning district.

HEIGHT OF BUILDING: The vertical distance from the finished ground level at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line for a mansard roof, to the mean height level between the eaves and ridge for hip, gabled and gambrel roofs. (Fig.1)

HIGHWAY: An expressway, State or Federally maintained thoroughfare, or limited access highway, as designated on the Official Thoroughfare Plan.

HOME OCCUPATION: Any occupation or professional activity which is conducted entirely within the dwelling and carried on exclusively by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and provided further, that no article or service is sold or offered for sale on the premises, except such as is produced by such occupation.

HOSPITAL: An institution providing health services, primarily for patients who remain overnight, and medical and surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

HOTEL/MOTEL: A building occupied or used for the lodging of individuals or groups of individuals, with or without meals, and in which there are more than five (5) sleeping rooms, and which no provision is made for cooking in any guest room; and all state approvals are completed.

JUNK: For the purpose of this Ordinance, the term “junk” shall mean any motor vehicles, machinery, appliances, products, merchandise with parts missing or scrap metals or other scrap metals that are damaged, deteriorated, or are in a condition which would preclude the product’s use for its originally designed purpose.

JUNK YARD: A lot or part thereof which is used for storage, keeping or abandonment of junk, including scrap metal, vehicles, machinery or part thereof.

KENNEL: Any lot or premises on which four or more dogs, four (4) months or more old, are kept permanently or temporarily.

LABORATORY: A place devoted to experimental or routine study, such as testing and analytical operations, and in which manufacturing of product or products are not permitted.

LOADING SPACE: An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading and unloading merchandise or materials.

LOT: A parcel of land occupied or to be occupied by one main building and its accessory buildings with such open spaces and off-street parking spaces are required by the provision of this Ordinance and having frontage upon a public street.

LOT AREA: The area of any lot exclusive of street, highway, alley, road, or other rights-of way. Easements are considered to be a part of the Lot Area.

LOT, CORNER: A lot located at the intersection of two or more streets or a lot bounded on two sides by a curving street, two chords of which form an angle of one hundred thirty-five (135) degrees or less. The point of intersection of the street lot lines is the “corner”. In the case of a corner lot with curved street lines, the corner is that point on the street lot line nearest to the point of intersection of the chords described above. (Fig. 2)

LOT DEPTH: A mean horizontal distance from the front lot line to the rear lot line.

LOT, DOUBLE FRONTAGE: An interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of row of double frontage lots, one street may be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. See Lot, Through.

LOT, INTERIOR: A lot other than a corner lot. Any portion of a corner lot more than one hundred twenty (120) from the “corner” measured along a front street lot line, shall be considered an interior lot, provided such portion is of sufficient width, length, and area to meet the minimum requirements of the zoning district in which it is located. (Fig. 2)

LOT LINES: The property lines bounding the lot.

LOT LINE, FRONT: Any lot line which is a street line except that in the case of a corner lot, the front line is the shorter of the two intersecting lines. In the case of a double frontage lot, all lot lines which are street lines shall be considered front lot lines unless otherwise designated in the plat.

LOT LINE, REAR: Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular shaped lot, a line ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of the rear yard. In cases where none of these definitions are applicable, the Building Commissioner shall designate the rear lot line.

LOT LINE, SIDE: Any lot line which is not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT LINE, STREET OR ALLEY: A lot line separating the lot from the right-of-way of a street or an alley.

LOT OF RECORD: A lot which is part of a subdivision of a lot or a parcel described by metes and bounds, the descriptions of which have been so recorded in the Office of the Recorder of Deeds of Porter County, Indiana.

LOT, THROUGH: A lot other than a corner lot with frontage on more than one street. See Lot, Double Frontage.

LOT WIDTH: The horizontal distance between the side lot lines, measured at the two points where the building line, or setback, intersects the side lot lines.

MANUFACTURED HOME. A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code of Indiana Public Law 360, Acts of 1971, as promulgated by the Indiana Administrative Building Council. Type I manufactured homes are defined in Article XI, Manufactured Homes.

MANUFACTURED HOME PARK or SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which homes are affixed before the effective date of this definition; and any expansion of an existing park or subdivision that includes the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads).

MASTER DRAINAGE PLAN. The comprehensive drainage plan, as adopted and amended by the Board of Public Works and Safety and the Plan Commission, which guides said Board and Commission in their decisions concerning stormwater runoff.

MAXIMUM LOT COVERAGE. The percentage of the total area of a lot or parcel that may be covered with buildings, parking areas, streets, roadways, drives, walkways, tennis courts, or any other concrete, asphalt, or hard surface impervious material.

MINI-WAREHOUSE. An enclosed facility divided into multiple units no larger than 8,000 cubic feet per unit used exclusively for the storage of goods, wares, and merchandise, whether for owner or others, whether public or private, that are stored for hire.

MOBILE HOME. A transportation structure larger than three hundred and twenty (320) square feet, designed to be used as a year round residential dwelling and built prior to enactment of the federal Manufactured Housing Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15, 1976.

MOBILE HOME PARK. A parcel or tract of land not less than three acres in size developed with facilities for locating mobile homes, provided each mobile home contains a kitchen, flush toilet and shower.

MOTEL. A series of attached, semi-detached, or detached rental units containing bedroom, bathroom and closet space, and in which kitchen or cooking facilities may be provided. Units shall contain not less than two hundred fifty (250) square feet of floor space, provided however, that for those units with kitchens or kitchenettes, a total of three hundred (300) square feet of floor space in each rental unit shall be provided.

MOTOR FREIGHT TERMINAL. A building or premise in which freight is received or dispatched by motor vehicle.

NONCONFORMING USE. Any use of land or a structure, or portions thereof, which does not conform to the use regulations of the zoning district in which it is located, provided however, that said use was in existence on the date of adoption of this Ordinance or subsequent amendments thereto which directly affect the land or structure in question. Violations of existing regulations shall not hereafter be deemed legal nonconforming uses.

NOXIOUS MATTER. Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

NURSERY OR DAY CARE CENTER. An agency, organization, or individual providing daytime care to five (5) or more children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult.

NURSING HOME, SHELTER CARE CENTER, OR REST HOME. An establishment for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorder, but not including facilities for the treatment of sickness or injuries or for surgical care.

OCCUPANCY. Residence in a building or part of a building as an owner or tenant, or as a member of tenant's or owner's family.

OCCUPIED SPACE. The total area of earth horizontally covered by a structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

OCTAVE BAND. A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

ODOROUS MATTER. Any matter or material that yields an odor which is offensive in any way.

OFF-STREET PARKING AREA. Land which is improved and used, or a structure which is designed and used exclusively for the storage of passage motor vehicles, either for accessory off-

street parking spaces or commercial off-street parking spaces when permitted herein by district regulations.

OFF-STREET PARKING LOT. A lot, or portion thereof, devoted to parking spaces for motor vehicles along with adequate drives and aisles for maneuvering to provide access for entrance and exit for the parking of more than two automobiles.

ONE AND TWO FAMILY DWELLING CODE. The nationally recognized model building code prepared by the Council of American Building Officials, adopted by the Indiana Administrative Building Council (ABC) and, which includes those supplements and amendments promulgated by the ABC.

OPEN AIR BUSINESS. Open air businesses shall include the following uses when said uses are operated for a profit and not conducted from a wholly enclosed building:

- a. Bicycle, trailer, motor vehicle, boat, or home equipment sale or rental services.
- b. Outdoor display and sale of garages, swimming pools, and similar uses.
- c. Retail sale of fruits, vegetables, and perishable foods.
- d. Retail sale of trees, shrubbery, plants, flowers, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- e. Tennis courts, archery courts, shuffleboard, horseshoe courts, children's amusement park or similar recreation uses.

OPEN FRONT STORE. A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter said structure.

OPEN SPACE. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Such areas may be improved with only those buildings, structures, streets, and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

PARKING SPACE. An area not less than nine (9) feet wide by twenty (20) feet long, which is designed or used for the parking of one automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

PARTICULATE MATTER. Dust, smoke or any form of airborne pollution in the form of minute separate particles.

PERFORMANCE STANDARD. A criteria established to control smoke and particulate matter, noise, odorous matter, toxic matter, vibration, fire and explosion hazards, glare and radiation hazards generated by, or inherent in, uses of land or buildings.

PLAN COMMISSION. The City of Valparaiso Plan Commission.

PLANNED UNIT DEVELOPMENT (PUD). The development of an area of land as a single entity for a number of dwelling units or a number of uses according to a plan, which does not correspond in lot size, bulk, or type of dwelling, allowed use, density, lot coverage, or required open space to the regulations otherwise required by this Ordinance for the district in which the PUD is located.

PORCH, ENCLOSED. A covered entrance to a building or structure which restricts the free entry of air, natural light, or view by means of permanently installed fixtures, and which projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH, OPEN. A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof and railing which may be attached thereto, and which projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PROPERTY LINES. The lines bounding a lot, as defined herein.

PUBLIC WAY. Any sidewalk, street, alley, highway or other thoroughfare dedicated to the use of the public.

PUBLIC UTILITY. Any person, firm, corporation or municipal department duly authorized to furnish, under public regulation, to the public, electricity, gas, steam, telephone, telegraph, transportation and water.

RAILROAD RIGHT-OF-WAY. A strip of land containing tracks and auxiliary facilities for track operations, but not including depots, loading platforms, train sheds, workhouses, car shops, car yards, locomotive shops or water towers.

RECREATIONAL VEHICLE. A portable vehicular structure not built to 1974 federal standards for mobile homes or the ANSI 119.1 Mobile Home Design and Construction Standards, as amended, designed for travel, recreational camping or vacation purposes, either having its own motor power or mounted onto or drawn by another vehicle, and including but not limited to travel and camping trailers, truck campers and motor homes. A vehicle which is built on a single chassis, is 400 sq. feet or less when measured at the largest horizontal projections, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as quarters for recreational camping, travel, or seasonal use.

REGULATORY FLOOD. That flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100 year period, as calculated by a method and procedure which is acceptable to and approved by the State of Indiana. This flood is equivalent to flood have a probability of occurrence of one (1) percent in any given year.

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

RENGELMANN CHART. A chart which is described in the U.S. Bureau of Mines, Information Circular 6888, and on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke.

RESEARCH LABORATORY. A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

RETENTION POND. A stormwater storage area that is designed and maintained to temporarily contain water only when excess stormwater occurs and to permanently hold an additional

volume of water at a level which is at or below the discharge structure of such storage area. A retention pond is the same as a wet-bottom stormwater storage area.

RIGHT-OF-WAY. The area needed for the construction of a complete street, including the road bed, curb, gutter, parkway, sidewalk, and side ditch, if needed. The right-of-way generally extends from the inner side of the sidewalk to the inner side of the sidewalk across the street.

ROOMING HOUSE. A single dwelling unit, owner-occupied, with one cooking facility and no more than two roomers unrelated to owners.

SETBACK. A line established by this Ordinance, generally parallel with and measured from the lot line (property line), defining the limits of a yard in which no NEW building, other than permitted accessory building or structure may be located above ground, except as otherwise provided in this Ordinance.

SEXUALLY ORIENTED ESTABLISHMENT. Any use of property available to the public, whether for profit or not, that: a) involves nude or topless dancing; b) predominantly advertises and offers material and/or items that depict and/or are generally used in sexual activity; or, c) allows other similar activities that depict, describe, simulate, or relate to sexual activities. Not limiting the proceeding, such shall also include any: 1) bookstore/shop in which the primary type of material offered is of a sexual nature; 2) motion picture arcade/motion picture theater in which the predominant type of material shown depicts sexual acts; 3) cabaret/lounge/night club in which the predominant attraction is nude or topless dancing; 4) health spa/sauna in which services of a sexual nature are offered to the public; including but not limited to any adult bookstore or supply store, adult hotel or motel, adult motion picture arcade, adult motion picture theater, adult cabaret, lounge, or night club, adult health spa/sauna, adult outdoor motion picture theater, adult live stage performing theater, adult model studio, adult novelty business, escort agency, massage parlor, sexual encounter center, or any other business that offers its patrons services or entertainment that provide nude dancing or other live recording performances that depict, describe, or relate to “specified anatomical areas” or “specified sexual activities.”

- A. Adult Arcade: A commercial establishment that offers coin-operated (or operation by any other form of consideration) electronically-, electrically-, or mechanically-controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices to show images to fifty (50) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting of specified anatomical areas or specified sexual activities.
- B. Adult Bookstore or Supply Store: An establishment having twenty five percent (25%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, video tapes, DVDs, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, cribbing, or relating to “Specific Sexual Activities” or “Specified Anatomical Areas”. Such establishments or the segment or section devoted to the

sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age

- C. Adult Cabaret, Lounge, Night Club: An establishment which features any of the following: topless dancers, and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees. Lingerie or bathing suit fashion shows, not infrequently features entertainers who display “specified anatomical areas” or features entertainers who, by reason of their appearance or conduct, perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in, explicit simulation of “Specified Sexual Activities.”
- D. Adult Health Spa/Sauna: A health spa, sauna or massage parlor that excludes minors by reason of age and/or provides steam bathes, heat bathing, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body, and is distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Area,” as defined herein. This definition does not include health spas, salons or similar establishments that offer massage therapy or other manipulation of the human body by a certified massage therapist.
- E. Adult Hotel/Motel: A motel, which rents rooms by the hour and presents visual displays, graphic materials, or activities that depict, describe or relate to “Specified Sexual Activities” or “Specified Anatomical Area.” Or a hotel, motel, or similar commercial establishment offering public accommodations for any form of consideration that provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes recorders, DVD recorders, slides, or other photographic reproductions for viewing or recording, characterized by an emphasis upon the depiction or description of “Specified Sexual Actives” or Specified Anatomical Areas” and/or rents leases or lets any room for less than a six (6) hour period, or rents leases or lets any single room more than twice in a twenty-four (24) hour period.
- F. Adult Motion Picture Arcade or Adult Live Stage Performing Theater: Any place to which the public is permitted or invited wherein coin or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to fifty (50) or fewer persons per machine at any one time, and where images so displayed are distinguished or characterized by an emphasis on matter depicting or describing “Specified Sexual Activities” or “Specified Anatomical Areas.”
- G. Adult Model Studio: Any place where models who display “Specified Anatomical Areas” are present to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by persons who pay some form of consideration or gratuity.

This definition shall not apply to any bona fide art school or similar educational institution or a professional photographic studio.

- H. Adult motion picture theater- An establishment emphasizing or predominantly showing sexually oriented movies.
- I. Adult Novelty Business: A business which has as a principal activity the sale of devices which stimulate human genitals or devices designed for sexual stimulation. OR An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing novelties, lotions and other items distinguished or characterized by their on or use for “Specialized Sexual Activities” or Specified Sexual Areas” or an establishment that holds itself out to the public as a purveyor of such materials based upon signage, advertising, displays, actual sales, exclusion of minors from the establishment’s premises or any other factors showing the establishment’s primary purpose is to purvey such material.
- J. Adult Outdoor Motion Picture Theater: A drive-in theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- K. Display publicly- The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content of character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and materials other than adult media are on display to the public.
- L. Escort Agency: A person or business who furnishes, offers to furnish, or advertises the furnishing of escorts for a fee, tip, or other consideration.
- M. Escort: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees to privately model lingerie, or to privately perform a striptease for another person.
- N. Establishment- Any business regulated by this Article IV section 497.
- O. Lingerie modeling studio- An establishment or business that provides the services of live models modeling lingerie to individual, couples, or small groups in a room smaller than 600 square feet.
- P. Massage Parlor: A place where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone using mechanical, therapeutic, or bathing devices or techniques for prurient or sexual purposes.

Q. Nudity or a state of nudity means:

- a. The appearance of a human anus or genitals, or female breast; or
- b. A state of dress, which fails to opaquely cover a human anus or genitals, or female breast.

R. Sexual Encounter Center: A commercial establishment that, as one (1) of its principal business purposes, offers for any from of consideration:

- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in the state of nudity.

S. Specified Anatomical Areas:

- a. Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below the point immediately above the top of the areola, and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

T. Specified Sexual Activities:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities set forth in subsections (a) through (c) above.

SIGN. A name, display identification, device, notice, figure, painting, drawing, message, placard, poster, work, bulletin board, symbol, letter numeral, emblem, trademark, flag or banner, pennant, or other illustration which is affixed to or painted or represented directly or indirectly upon a building, or other outdoor surface, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business and is visible from any alley, street, highway, sidewalk or other public way, whether such is placed out-of-doors or in windows. Each display surface of a sign shall be considered a separate sign. However, the word sign does not include any display of official, court or public office notices, nor the flag, emblem or insignia of a nation, political unit, school or religious group. The sign definition shall not apply to a sign located completely within an enclosed building unless the contents shall be

visible from the street. The identification and addresses of establishments on awnings and marquees shall not be considered signs.

SOIL REMOVAL. Shall mean removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay, rock or similar materials, or combination thereof, except such as is related to common household gardening and agriculture.

STORY. That portion of a building, except as hereinafter provided, between the surface of any floor and the surface of the floor next above, or if there be no floor above, it, then the space between the floor and ceiling next above it and including cellars and basements used for dwelling or business purposes. A “mezzanine” shall be deemed a full story when it covers more than fifty percent of the horizontal area of the story underneath said mezzanine or if the vertical distance from the floor next below it to the floor next above it is twenty-four feet or more.

STORY, HALF. The part of a building between a pitched roof and the uppermost full story, said part having a finished floor area which does not exceed one-half the floor area of said uppermost full story or a basement not used for dwelling or business purposes.

STREET. A thoroughfare which affords traffic circulation and a principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare, except an alley. Improved public streets are those constructed according to standards existing at the time of new construction.

STREET, ARTERIAL. A street designated on the Official Thoroughfare Plan as “arterial”. Such streets are designated to carry large volumes of traffic. Certain arterial streets may be designated as Limited Access Highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

STREET, COLLECTOR. A street planned to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways for traffic to reach arterial streets. Such streets are designated as “collector” on the Official Thoroughfare Plan.

STREET, LOCAL COLLECTOR. A local street lying within a subdivision which, although not shown as a collector on the Official Thoroughfare Plan, is built to collector specification and standards at the request of the Commission.

STREET, LOCAL. A street designated primarily to provide access to abutting properties.

STRUCTURE. Anything constructed or erected which requires permanent location on the ground or attachment to something having a permanent location on the ground.

STRUCTURAL ALTERATIONS. Any change, other than incidental repairs, which would prolong the life of the supporting members of a building such as the addition, removal, or alteration of bearing wall, columns, beams, girders or foundations.

SUBDIVIDER. A person engaged in developing or improving a tract of land which complies with the definition of a subdivision.

SUBDIVISION. The division of any parcel of land into two or more parcels, sites, or lots, any one of which is to be used for other than agricultural purposes. However, the following divisions of land shall not be considered as a subdivision.

1. The division of a tract of land into parcels not involving the provision of any new streets, widening of existing streets, easements for utilities or access, or street, sidewalk or utility improvements.
2. The division of land into parcels of ten acres or more not involving the provision of any new streets, widening of existing streets, easements for utilities or access, or street, sidewalk or utility improvements.

All subdivisions must meet the requirements of the Subdivision Control Ordinance.

SWIMMING POOL. Any body of water or receptacle for water having a depth of two feet or more at any point and maintained by the owner or manager for swimming purposes, to be governed under the regulations of the Municipal Code for the City of Valparaiso concerning swimming pools, and Article IV of this Ordinance.

TEMPORARY BUILDING AND USE-Including Storage Trailers. A structure or use permitted by the Building Commissioner to exist during periods of construction or rehabilitation of the main building or use for special events, and shall be used only during the period of construction or rehabilitation or special event. In the event more than one storage trailer is to be used, then a permit must be obtained from the Board of Zoning Appeals.

THOROUGHFARE PLAN. The development plan for the City of Valparaiso, now or hereafter adopted, which includes a major street and highway plan and sets forth the location, alignment, dimensions, identification and classification of existing and proposed streets, highways, and other thoroughfares. (See Article X).

TOURIST HOME. A dwelling with not more than four sleeping rooms in which overnight accommodations are provided or offered for transient guests for compensation, without provision for meals.

TOXIC MATTER OR MATERIAL. A substance (liquid, solid or gaseous) which by reason of an inherent deleterious property tends to destroy life or impair health.

TRAILER. Any vehicle, house-car, camp-car, or any portable or mobile vehicle on wheels, skids, rollers or blocks, either self-propelled or propelled by any other means, which is used or designed to be used for residential living, sleeping or commercial purposes and herein referred to as a "trailer".

USE. The purpose for which land or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.

USABLE FLOOR AREA. Usable floor area, for the purposes of computing required parking spaces, is that area used for or intended to be used for the sale of merchandise or services or for serving patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities shall be excluded from this computation of usable floor area.

USABLE OPEN-SPACE. Permanently reserved open space which is provided as required by this Ordinance for the use of residents of dwellings or the general public.

USE-SPECIAL. A “special use” as designated in the Indiana Statutes that has unusual operational, physical or other characteristics that may be different from those of the predominant permitted uses in a district, but which is a use that compliments and is otherwise or can be made compatible with the intended over-all development within a district. Compliance with special standards not necessarily applicable to other permitted uses or special uses in the district shall be required for a special use, as regulated in this Ordinance.

USE -LAWFUL. The use of any structure or land that conforms with all of the regulations of this Ordinance, or any amendment thereto, and which conforms with all of the codes, ordinances and other legal requirements as existing at the time of the enactment of this Ordinance, or any amendment thereto, for the structure or land that is being examined.

YARD. An open space that is on the same land with a building or group of buildings, which lies between the building or group of buildings and the nearest lot line or zoning lot line, and which is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

YARD, FRONT. A yard extending the full length of a front lot line, the depth of which is the minimum horizontal distance between the front lot line and the nearest part of the main building. (Fig. 3)

YARD, REAR. A yard extending the full length of a rear lot line, the depth of which is the minimum horizontal distance between the rear lot line and the nearest part of the main building. On lots abutting streams, the rear yard shall be considered the area between the main building and said stream.

YARD, SIDE. A yard extending along a side lot line between the front yard and the rear yard, the width of which is the minimum horizontal distance between the side lot line and the nearest part of the main building.

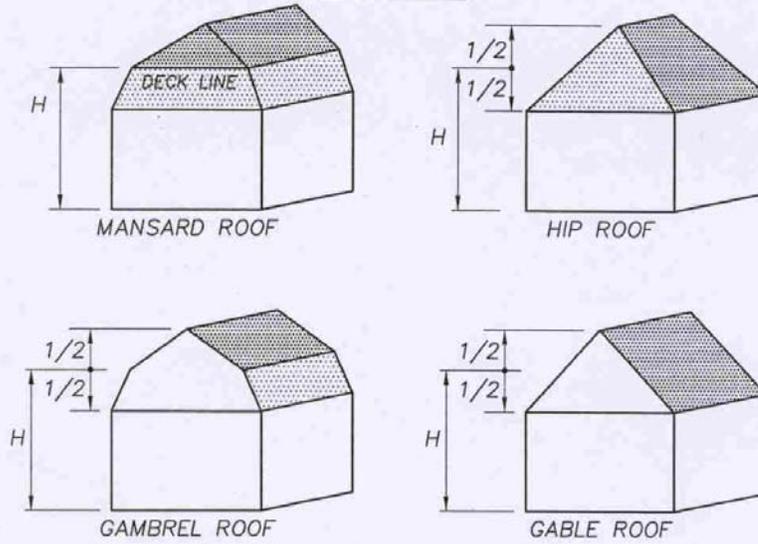
ZONING DISTRICTS. The districts into which the City of Valparaiso has been divided for zoning regulations and requirements as set forth in the Zoning District Map.

ZONING LOT. A parcel of land located within a single block and designated by its owner as a tract all of which is used or is to be used, developed, or built upon as a unit. A zoning lot, therefore, may or may not coincide with a lot shown in the official records of the Office of the Recorder of Deeds of Porter County, or on any recorded subdivision plat or deed.

A lot may be subdivided into two or more zoning lots, provided that all resulting zoning lots and all buildings thereon shall comply with all of the applicable provisions of this Ordinance and the Subdivision Regulation Ordinance. However, if such zoning lot is occupied by a non-complying building, such zoning lot may be subdivided only when such subdivision does not create a new non-compliance or increase the degree of non-compliance of such building or lot.

ZONING MAP. The map or maps incorporated into this Ordinance as part thereof, designating zoning districts.

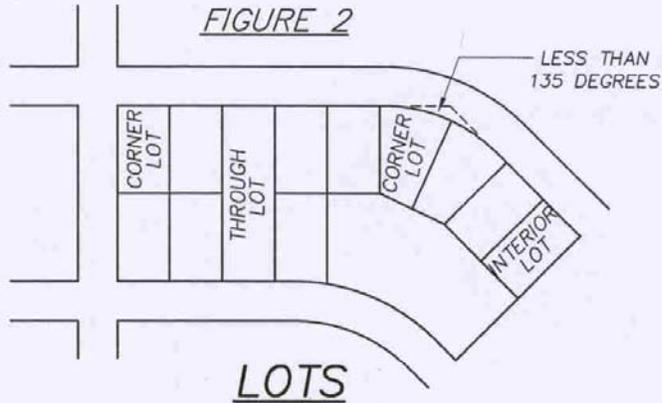
FIGURE 1



H = HEIGHT OF BUILDING

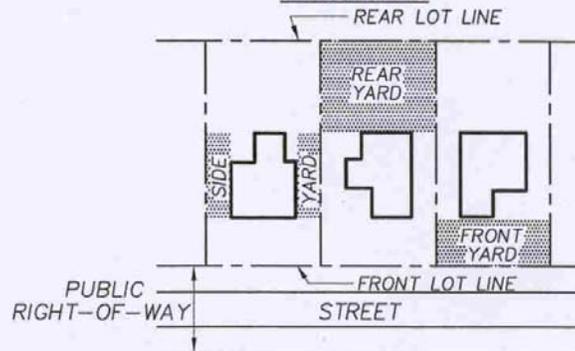
BUILDING HEIGHT

FIGURE 2



LOTS

FIGURE 3



YARDS