

Article 10. Definitions

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Sec. 21-10.1 Definitions.

For the purposes of this chapter, words used in the present tense shall include the future; words used in the singular include the plural, and the plural the singular. The use of any gender shall be applicable to all genders. The word “shall” is mandatory; the word “may” is permissive; the word “land” includes inland bodies of water and marshes.

Where a proposed use is not specifically listed in this chapter or included in a definition in this article, the director will review the proposed use and, based upon the characteristics of the use, determine which listed and/or defined use is equivalent to that proposed.

A

“Accessory dwelling unit” means a second dwelling unit, including separate kitchen, bedroom and bathroom facilities, attached or detached from the primary dwelling unit on the zoning lot.

“Accessory use” means a use which meets the following conditions:

- (1) Is a use which is conducted on the same zoning lot as the principal use to which it is related whether located within the same building or an accessory building or structure, or as an accessory use of land;
- (2) Is clearly incidental to and customarily found in connection with the principal use; and
- (3) Is operated and maintained substantially for the benefit or convenience of the owners, occupants, employees, customers or visitors of the zoning lot with the principal use.

“Active agricultural use” means continuously used for the business of raising and producing agricultural products in their natural state, including necessary and customary fallowing periods.

“Adjoin,” “adjoining,” and “adjoins” mean without an intervening street or permanent open space over 25 feet in width.

“Adverse reflection” means a glare toward any oncoming traffic within a 45-degree cone of vision to each side and a 30-degree cone of vision vertically which could create a traffic hazard.

“Agribusiness activities” means accessory uses conducted on the same site where agricultural products are cultivated or raised. Included are transportation facilities used to provide for tours of the agricultural parcel.

“Agricultural cluster” means an area accommodating joint facilities for farming activities, including the clustering of homes within a larger site, by individuals, associations or corporations.

“Agricultural easement” means the grant of a property right stipulating that the affected land will remain in active agricultural production or in open space.

“Agricultural products” include floricultural, horticultural, viticultural, aquacultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, tree farm, animals raised by grazing and pasturing, and any other farm, agronomic, or plantation products.

Agricultural Products Processing, Major and Minor. “Major agricultural products processing” means and includes activities involving a variety of operations on crops or livestock which may generate dust, odors, pollutants or visual impacts that could adversely affect adjacent properties. These uses include slaughterhouses, canneries and milk processing plants. “Minor agricultural products processing” means and includes activities on a zoning lot not used

for crop production, which are not regulated as major agricultural products processing and which perform a variety of operations on crops after harvest to prepare them for market, or further processing and packaging at a distance from the agricultural area. Included activities are vegetable cleaning, honey processing, poi-making and other similar activities. Minor activities shall be permitted as an accessory use when conducted on the same zoning lot on which the crop is cultivated.

“All-weather surface” means a four-inch base course with a two-inch asphaltic concrete surface or a four-inch reinforced concrete pavement or any other similar materials as determined to be acceptable by the department. These materials should combine the load-bearing characteristics, durability and level surface of asphalt and concrete. “Grass bloc” and “grasscrete” may be considered all-weather surfaces.

Amusement and Recreation Facilities, Indoor. “Indoor amusement and recreation facilities” means establishments providing indoor amusement or recreation. Typical uses include: martial arts studios; billiard and pool halls; electronic and coin-operated game rooms; bowling alleys; skating rinks; reducing salon, health and fitness establishments; indoor tennis, handball and racquetball courts; auditoriums, indoor archery and shooting ranges, and gymnasiums and gymnastic schools.

Amusement Facilities, Outdoor. “Outdoor amusement facilities” means permanent facilities providing outdoor amusement and entertainment. Typical uses include: theme and other types of amusement parks, stadiums, skateboard parks, go-cart and automobile race tracks, miniature golf and drive-in theaters.

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Amusement Facilities, Outdoor, Motorized. “Motorized outdoor amusement facilities” means outdoor amusement facilities utilizing motorized vehicles or equipment and includes go-cart and automobile race tracks and theme and other amusement parks utilizing motorized amusement rides.

“Animal products processing” means establishments primarily involved in the processing of animal products for food and/or other uses, including the handling, storage and processing of meats, fish and fowl, skin, bone, fat and/or other animal byproducts suitable for sale or trade. This term does not include slaughterhouses, canneries or milk processing plants.

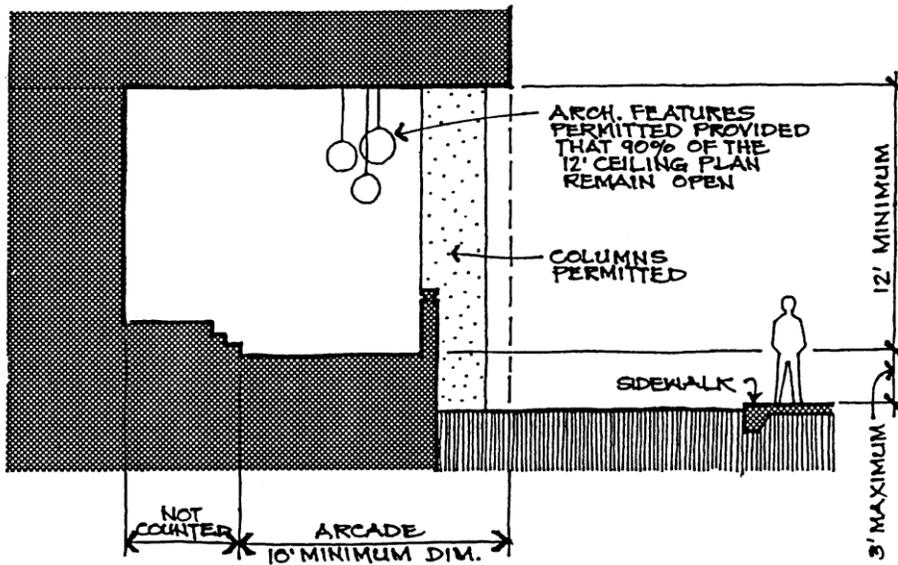
“Antenna structure, freestanding” means a freestanding tower, pole, mast or similar structure, exceeding three inches in diameter or horizontal dimension, used as the supporting structure for a transmitting antenna. For purposes of this definition, “freestanding” means not attached to a building or similar structure.

“Aquaculture” means the production of aquatic plant and animal life for food and fiber within ponds and other bodies of water.

“Arcade” means a contiguous area with access to a street designed to provide pedestrian access to more than one abutting establishment. It is open and unobstructed to a height of not less than 12 feet, is accessible to the public during business hours and has an area of not less than 500 square feet including portions occupied by building columns. It has minimum length and width dimensions of 10 feet. An arcade is not more than three feet above the level of the sidewalk which it adjoins. At least 50 percent of its perimeter is open to a street, sidewalk or public open space, except for a railing or wall with a maximum height of 42 inches (see Figure 21-10.1).

Figure 21-10.1

ARCADE



“Attic” means a portion of a building wholly or partly in the roof, so designated, arranged or built as to be used for business, storage or habitation. Attic areas with a head room of less than seven feet shall not be included as floor area.

“Automobile service station” means a retail establishment which primarily provides gasoline, oil, grease, batteries, tires, or automobile accessories and where, in addition, the following routine and accessory services may be rendered and sales made, but no other:

- (1) Servicing of spark plugs, batteries, tires;
- (2) Radiator cleaning and flushing;
- (3) Washing and polishing, including automated, mechanical facilities;
- (4) Greasing and lubrication;
- (5) Repair and servicing of fuel pumps, oil pumps and lines, carburetors, brakes and emergency wiring;
- (6) Motor adjustments not involving repair of head or crankcase;
- (7) Provision of cold drinks, packaged foods, tobacco and similar convenience goods for gasoline supply station customers, but only as accessory and incidental to the principal operation, and not to exceed 400 square feet of floor area;
- (8) Provision of road maps and other information material to customers;
- (9) Provision of rest room facilities;
- (10) Parking as an accessory use;
- (11) Towing service.

The following are not permitted: tire recapping or regrooving, body work, straightening of frames or body parts, steam cleaning, painting, welding, or nontransient storage of automobiles not in operating condition, or permitted repair activities not conducted within an enclosed structure in any zoning district other than the industrial districts.

B

“Base yards” means the principal facility for establishments which provide their services off-site, but where a site is needed for the consolidation and integration of various support functions, and where the parking of company vehicles is a prominent if not principal activity. Typical base yards include a construction company’s facility or a bus yard. Base yards may include, but are not limited to, the following:

- (1) Business office, provided administrative and executive functions are clearly accessory and incidental to the overall operation of the facility on the same zoning lot.
- (2) Storage, cleaning and repair of materials, vehicles and equipment used by the establishment.
- (3) Vehicle dispatch.
- (4) Personnel-related support facilities (e.g., locker and shower rooms, kitchen or cafeteria, lounge).

“Basement” means a floor which is wholly below grade, or which is partly below grade such that the floor above is no more than three feet above grade for at least 50 percent of the floor’s perimeter.

Grade shall be either existing or finish grade, whichever is lower at all points (see Figure 21-10.2).

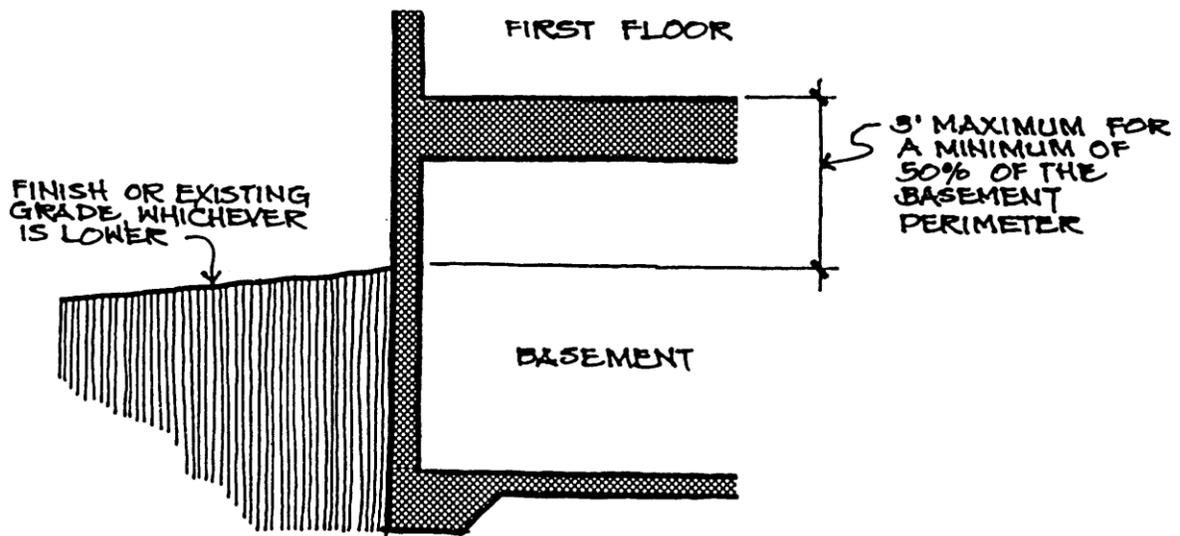
“Bathroom” means a room, or combination of adjoining rooms that provide access to one another, that is equipped for taking a bath or shower, and that includes either a sink or toilet, or both. A 0.5 bathroom means any room, or combination of adjoining rooms that provide access to one another, that is equipped with a sink or toilet, or both, but is not equipped with a bath or shower.

“Bed and breakfast home” means a use in which overnight accommodations are advertised, solicited, offered, or provided, or a combination of any of the foregoing, to guests for compensation, for periods of less than 30 days, in the same detached dwelling as that occupied by an owner, lessee, operator, or proprietor of the detached dwelling. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of guests.

“Biofuel processing facility” means a biofuel processing facility as defined under HRS Section 205-4.5(a)(15).

Figure 21-10.2

BASEMENT



“Boarding facilities” means establishments with one kitchen which provide living accommodations for roomers in addition to the resident manager or owner and family, with or without meals, for remuneration or in exchange for services. The term does not include group living facilities or monasteries and convents.

“Booking service” means any reservation or payment service provided by a person that facilitates a transaction between an owner, operator, or proprietor of a bed and breakfast home or transient vacation unit, and a prospective user of that bed and breakfast home or transient vacation unit, and for which the person collects or receives, directly or indirectly through an agent or intermediary, a fee from any person in connection with the reservation or payment services provided for by the transaction.

“Boundary wall” means a solid wall without openings, which is part of a building and erected on the boundary line between adjacent zoning lots.

“Broadcasting antennas” means and includes antennas, towers and other accessory facilities for radio frequency (RF) transmissions for AM and FM radio and television broadcasting. These facilities are regulated by the Federal Communications Commission (FCC) under the Code of Federal Regulations Part 73. These transmissions can be received by anyone with a radio or television. Not included are broadcasting studios and stations.

“Buildable area” means a portion of a zoning lot excluding required yards, stream setbacks, shoreline setbacks and street setbacks.

“Buildable area boundary line” means any of the imaginary lines which constitute a perimeter separating the buildable area from the nonbuildable area of a zoning lot.

“Building” means a structure with a roof which provides shelter for humans, animals or property of any kind.

“Building area” means the total area of a zoning lot covered by structures and covered open areas. The following are not considered building area:

- (1) Open areas covered by eaves and normal overhang of roofs.
- (2) Uncovered entrance platforms, uncovered terraces and uncovered steps when these features do not themselves constitute enclosures for building areas below them, and do not exceed 30 inches in height.
- (3) All-weather surfaces.

“Business services” means establishments which primarily provide goods and services to other businesses, including but not limited to minor job printing, duplicating, binding and photographic processing, office security, maintenance and custodial services, and office equipment and machinery sales, rentals and repairing.

C

“Carport” means an accessory structure or portion of a principal structure consisting of a roof and supporting members such as columns or beams, unenclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor vehicles.

“Catering establishments” means establishments primarily involved in the preparation and transfer of finished food products for immediate consumption upon delivery to off-premises destinations including, but not necessarily limited to, hotels, restaurants, airlines and social events.

“Cemeteries and columbaria” mean interment facilities engaged in subdividing property into cemetery lots and offering burial plots or air space for sale. Included are cemetery lots, mausoleums and columbaria. The following are permitted as accessory uses: crematory operations, cemetery real estate operations, mortuary services, floral and monument sales, and detached one-family dwellings to be occupied only by caretakers of the cemetery.

“Commercial parking lots and garages” mean any building or parking area designed or used for temporary parking of automotive vehicles, which is not accessory to another use on the same zoning lot and within which no vehicles shall be repaired.

“Composting, major and minor,” means a process in which organic materials are biologically decomposed under controlled conditions to produce a stable humus-like mulch or soil amendment. The composting process includes, but is not necessarily limited to, receipt of materials, primary processing, decomposition activities, and final processing for sale and marketing. This term does not include bioremediation of fuel-contaminated soil.

Major composting operations involve more complex controls to manage odors, vectors and surface water contamination. For instance, in some cases, on-site odors may not be able to be completely mitigated. Major composting includes, but is not necessarily limited to, the composting of mixed solid waste, including solid

waste facility residues (rubbish), sewage sludge, waste from animal food processing operations, and similar materials.

Minor composting operations involve relatively simple management and engineering solutions to control odors, vectors and surface water contamination. Minor composting includes, but is not necessarily limited to, the composting of clean, source-separated organic materials, including, but not necessarily limited to, greenwaste, animal manure, crop residues, and waste from vegetable food processing operations.

“Consulate” means the administrative offices of staff and consul, an official appointed by a foreign government representing the interests of citizens of the appointing country.

“Convenience store” means a small retail establishment intended to serve the daily or frequent needs of surrounding population. Included are grocery stores, drug stores and variety stores. Excluded are automobile service stations, repair establishments and drive-thru eating and drinking establishments.

“Corporate retreat” means a transient vacation unit which is provided with or without monetary compensation by a business, company or corporation, including a nonprofit corporation, to transient occupants, including but not limited to employees, directors, executives or shareholders of the business, company or corporation.

“Crop production” means agricultural and horticultural uses, including production of grains, field crops, and indoor and outdoor nursery crops, vegetables, fruits, tree nuts, flower fields and seed production, ornamental crops, tree and sod farms, associated crop preparation services and harvesting activities.

“CUP” means conditional use permit.

D

“Dance school” or “music school” means an establishment where instruction in dance or music is provided students for a fee. Establishments where instruction is accessory to cabarets, nightclubs or dancehalls are not included in this definition.

“Data processing facilities” means establishments primarily involved in the compiling, storage and maintenance of documents, records and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices, computer-related sales establishments, and business or personal services.

“Day-care facility” means an establishment where seven or more persons who are not members of the family occupying the premises are cared for on an intermittent basis. The term includes day nurseries, preschools, kindergartens and adult day care.

“Department” means the department of planning and permitting.

“Designated authorized representative” means one or more persons appointed by the owner or owners to reside in the primary dwelling unit or accessory dwelling unit and act on behalf of the owner or owners in his or her absence.

“Developer” means a landowner or any person with written authorization from the owner who intends to improve or to construct improvements upon a zoning lot or portion of a zoning lot.

“Development” means any human-made change to improved or unimproved real property, including but not limited to buildings or other structures, filling, grading or excavation operation.

“Director” means the director of planning and permitting of the city or designated representatives of the director. As appropriate to the circumstances, approval by the director shall include approval by designated representatives.

“Donor lot” means a zoning lot that will transfer all or a portion of the unused floor area of the zoning lot to a receiving lot under off-site joint development approval.

“Drive-thru facility” means any portion of a retail establishment which offers service to patrons via a drive-thru counter or window so that patrons need not leave their vehicles for service. The term drive-thru does not include automobile service stations.

“Duplex unit” means a building containing one dwelling unit on a single zoning lot which is to be attached on a side or rear property line with another dwelling. The dwellings shall be structurally independent of each other and attached by means of a boundary wall. The attachment of the wall shall not be less than 15 feet or 50 percent of the longer dwelling on the property line, excluding carports or garages, whichever is the greater length. In lieu of construction with a boundary wall, both dwellings shall be built up independently to the property line (see Figure 21-10.3).

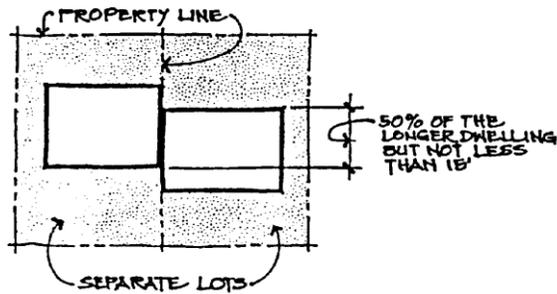
Dwelling, Detached. "Detached dwelling" means a building containing one or two dwelling units, entirely surrounded by yards or other separation from buildings on adjacent lots. Dwelling units in a two-family detached dwelling may be either on separate floors or attached by a carport, garage or other similar connection, or attached solid wall without openings which shall not be less than 15 feet or 50 percent of the longer dwelling (see Figure 21-10.3).

Dwelling, Multifamily. "Multifamily dwelling" means a building containing three or more dwelling or lodging units which is not a hotel.

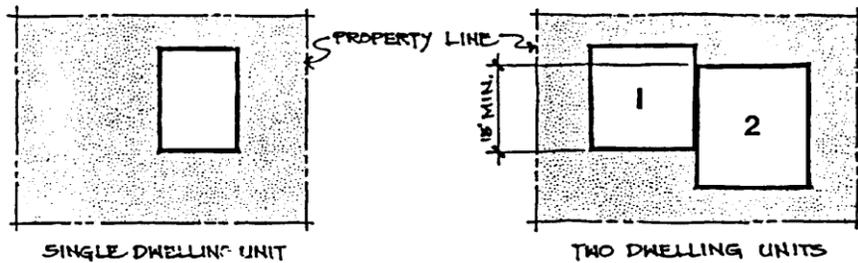
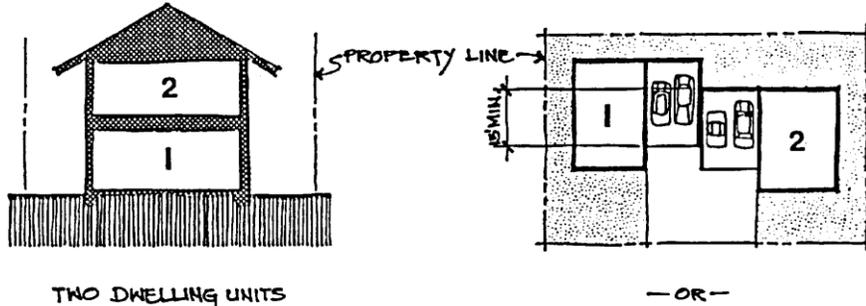
“Dwelling unit” means a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen. Two or more essentially separate structures, except for a token connection, such as a covered walkway or a trellis, do not constitute a single dwelling unit. Unless specifically permitted in use regulations, a dwelling unit shall not include a unit used for time sharing or a transient vacation unit as defined in this chapter.

Figure 21-10.3

DWELLINGS (TYPES)



DUPLEX



DWELLINGS DETACHED
(MULTI-FAMILY SIMILAR EXCEPT MORE THAN TWO DWELLING UNITS)

E

“Energy savings device” means any facility, equipment, apparatus or the like which makes use of nonfossil fuel sources for lighting, heating or cooling or which reduces the use of other types of energy dependent on fossil fuel for generation.

“Exclusive agricultural sites” means leasehold parcels within an agricultural zoning district having a minimum leasable area of five acres, and prohibiting any structures for temporary, seasonal, or permanent residential occupancy or habitation.

F

FAR. See definition of floor area ratio in this article.

“Family” means one or more persons, all related by blood, adoption, or marriage, occupying a dwelling unit or lodging unit. A family may also be defined as no more than five unrelated persons.

In addition, eight or fewer persons who reside in an adult residential care home, a special treatment facility or other similar facility monitored, registered, certified, or licensed by the State of Hawaii will be considered a family. Resident managers or supervisors are not included in this resident count.

“Farm dwelling” means a dwelling located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling.

“Financial institutions” means those establishments which provide a full range of traditional banking services on the premises, such as savings and checking accounts, loans, safety deposits, fund transfers, trust functions and investments (e.g., certificates of deposit, savings bonds, annuities). This term includes only banks, credit unions, and savings and loan institutions. This term does not include those establishments, such as loan processing companies, accounting firms and other bookkeeping services, investment brokers, insurance offices, and title transfer companies, which are principally involved in providing a limited range of financial services or products on the premises.

“Flag lot” means a zoning lot consisting of an access drive and a body in such a manner that the body would be landlocked from a public street or private way except for connection by the access drive (see Figure 21-4.1).

“Flag lot access drive” means a strip of land which provides access for a flag lot (see Figure 21-4.1).

“Flag lot body” means the landlocked portion of a flag lot (see Figure 21-4.1).

“Floor area” means the area of all floors of a structure excluding unroofed areas, measured from the exterior faces of the exterior walls or from the center line of party walls dividing a structure. The floor area of a structure, or portion thereof, which is not enclosed by exterior walls shall be the area under the covering, roof or floor above which is supported by posts, columns, partial walls, or similar structural members which define the wall line (see Figure 21-10.4).

Excluded from the floor area are:

- (1) Parking structures, including covered driveways and accessways, porte cocheres, and parking attendant booths;
- (2) Attic areas with head room less than seven feet;
- (3) Basements;
- (4) Lanais;
- (5) Projections such as sunshade devices and architectural embellishments which are decorative only;
- (6) Areas covered by roofing treatment to screen roof top machinery only; and
- (7) Areas underneath unsupported building overhangs, provided the area is not otherwise enclosed.

“Floor area ratio” means the ratio of floor area to total area of the zoning lot expressed as a percent or decimal. Where rounding of numbers is necessary to determine floor area ratio, the nearest one-hundredth shall be used. Multiplying the permissible floor area ratio by the lot area of the zoning lot determines the maximum floor area permitted.

“Food manufacturing and processing” means establishments primarily involved in the manufacture and processing of food products, other than animal products processing establishments, and which occupy less than 2,000 square feet of floor area. Typical activities include, but are not necessarily limited to, noodle factories, and coffee grinding.

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G

“Grading” means any excavation or cut or fill or combination thereof.

(Added by Ord. 99-12)

(Added by Ord. 03-37)

“Group living facilities” means facilities which are used to provide living accommodations and, in some cases, care services.

- (1) Included are monasteries and convents and dwelling units which are used to provide living accommodations and care services under a residential setting to individuals who are handicapped, aged, disabled or undergoing rehabilitation. These are typically identified as group homes, halfway houses, homes for children, the elderly, battered children and adults, recovery homes, independent group living facilities, hospices and other similar facilities.
- (2) Also included are facilities that provide services, often including medical care, and are identified as convalescent homes, nursing homes, sanitariums, intermediate-care or extended-care facilities, and other similar facilities.
- (3) Group living facilities include those with accommodations for more than five resident individuals, except those meeting the definition of family. Resident managers or supervisors shall not be included in this resident count.

“Grubbing” means any act to clear the ground surface of any or all trees, large shrubbery and/or large groupings of plants.

“Guest house” means a lodging unit for nonpaying guests or household employees not to exceed 500 square feet of floor area.

H

“Height envelope” means the three-dimensional space within which a structure is permitted to be built on a zoning lot and which is defined by the buildable area boundary lines, maximum height regulations and any applicable height setbacks.

“Heliport” means an area of land or structures designated or used for the landing or takeoff of helicopters or other rotorcraft. The term includes storage, maintenance or repair facilities, and sale and storage of supplies and fuel.

“Helistop” means an area designed and used only for the landing and takeoff of helicopters or other rotorcraft. Helistops shall not include hangars or repair, maintenance and storage facilities.

“Historic site or structure” means any site or structure which has been placed on either the national or state registers of historic places, or which is specifically listed as a site or structure of significance in a special district under Article 9 of this chapter.

“Home improvement centers” means single establishments primarily involved in providing a large variety of goods and services directly associated with building and home improvements.

“Home occupation” means any activity intended to produce income that is carried on within a dwelling, accessory structure to a dwelling or on a zoning lot used principally for dwelling purposes. Home occupations include the use of any residential premise as a base for an off-premise, income-producing activity.

“Home-based child care” means a home occupation in which child-care services are provided on a part-time basis to no more than six children who are not members of the household, and which is licensed by the state department of human services.

“Hospital” means an institution primarily for in-patient, intensive, medical or surgical care. It may also include facilities for extended care, intermediate care and/or out-patient care, medical offices, living facilities for staff, research and educational facilities, and related services and activities for operation of these facilities.

“Hosting platform” means a person that collects or receives a fee from any person for booking services through which an owner, operator, or proprietor of a bed and breakfast home or transient vacation unit may offer use of the bed and breakfast home or transient vacation unit. Hosting platforms typically, but not necessarily, provide booking services through an online platform that allows the owner, operator, or proprietor to advertise the bed and breakfast home or transient vacation unit through a website provided by the hosting platform, and the hosting platform conducts a transaction by which potential users arrange the use of and payment for the bed and breakfast home or transient vacation unit, whether the payment is made directly to the owner, operator, or proprietor, or to the hosting platform.

“Hotel” means a building or group of buildings containing lodging and/or dwelling units offering transient accommodations, and a lobby, clerk’s desk or counter with 24-hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended

primarily for the convenience and benefit of the hotel's guests, such as restaurants, shops, meeting rooms, and/or recreational and entertainment facilities.

I

“Impervious surface” means a surface covering or pavement of a developed parcel of land that prevents the land's natural ability to absorb and infiltrate rainfall or storm water. Impervious surfaces include, but are not limited to rooftops, walkways, patios, driveways, parking lots, storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering.

J

“Joint development” means the development of two or more adjacent subdivision lots under a single or unified project concept. See also “off-site joint development.”

K

Kennel, Commercial. “Commercial kennel” means any structures used to care for, breed, house or keep dogs, cats or other domesticated animals for commercial purposes. Included as kennels are animal pounds or shelters.

“Kitchen” means a kitchen facility for a housekeeping unit that exists when there is, on the premises of the housekeeping unit, an item from all three of the following categories:

- (1) Fixtures, appliances or devices for heating or cooking food;
- (2) Fixtures, appliances or devices for washing utensils used for dining and food preparation and/or for washing and preparing food;
- (3) Fixtures, appliances or devices for refrigeration of food.

L

“Lanai” means an area projecting from the face of a building which meets the following conditions:

- (1) It is an accessory area to a dwelling or lodging unit.
- (2) At least 50 percent of the area's perimeter is permanently open to the exterior except for a safety railing not exceeding four feet in height, and is without structural columns or walls.
- (3) The area is solely accessible from the dwelling unit to which it is appurtenant.

Recessed areas within the main building face are not lanais.

“Landscaped” means a maintained area of which a minimum of 50 percent shall be devoted exclusively to include plants which are rooted directly in the ground or in permanently fixed planter boxes. The remaining 50 percent may be devoted to rock gardens, fountains and reflecting pools.

“Laundry room” means a utility room in a dwelling unit that is used for washing and cleaning clothes and other fabrics, and which contains items such as a washing machine, utility sink, and clothes dryer.

“Lei making and selling” means a retail use or structure exclusively involved with the preparation and retail sale of leis made from fresh plant materials, subject to the following limitations:

- (1) Any structure used, such as a kiosk or vending cart, is not fixed to a particular location for more than 24 hours at a time; and
- (2) Any structure used has no more than one umbrella or canvas overhead directly attached to the structure, and is not fixed at any point to the ground or to another structure.

“Livestock” means and includes all animals generally associated with farming, which are raised and kept for food and other agricultural purposes. Such animals include horses, cattle, goats, sheep, chickens, ducks, geese and other poultry, and swine. See definition of “commercial kennel.”

“Livestock grazing” means the raising or feeding of livestock by grazing or pasturing. Not included are feedlots or the raising and keeping of swine.

Livestock Production, Major or Minor. “Major livestock production” means and includes agricultural establishments primarily engaged in commercial livestock keeping or feeding as a principal land use that, because of operational characteristics, may generate dust, odors, pollutants or visual impacts that could adversely affect adjacent properties. These include piggeries, dairies, dairy and beef cattle feedlots, chicken, turkey and other poultry farms. “Minor livestock production” means commercial small animal operations as a principal land use, such as rabbit farms, apiaries or aviaries.

“Lodging unit” means a room or rooms connected together, constituting an independent living unit for a family which does not contain any kitchen. Unless specifically permitted in use regulations, “lodging unit” shall not include a unit used for time sharing or a transient vacation unit as defined in this chapter.

“Long-term bicycle parking” means secure, weather-protected bicycle parking intended for employees, residents, commuters, and other visitors who generally stay at a site for several hours, or overnight.

“Lot area” means the total area within the lot lines of the zoning lot but exclusive of right-of-way for ingress or egress in favor of others, and easements for open drainage systems.

“Lot depth” means the average horizontal distance between the front and rear lot line. In the case of zoning lots with more than one front yard, either one of the zoning lot dimensions may be used to calculate lot depth.

“Lot width” means the average horizontal distance between side lot lines measured at right angles to lot depth. In the case of zoning lots with more than one front yard, either one of the zoning lot dimensions may be used to calculate lot width.

“Lowest floor” means the lowest floor of an enclosed area including basements of a building. An enclosure, usable solely for parking vehicles, building access or storage area is not considered a building’s lowest floor.

M

“Manufacturing, processing and packaging, light and general” means establishments primarily involved in the manufacture, processing, assembly, fabrication, refinement, alteration and/or packaging by hand or by machinery, from raw materials, component parts and/or other products, of finished goods, merchandise and/or other end products suitable for sale or trade.

Light manufacturing, processing and packaging establishments involve activities which are nonoffensive to adjacent uses; involve no open storage or other types of outdoor accessory uses other than parking and loading; do not involve processes which generate significant levels of heat, noise, odors and/or particulates; and do not involve chemicals or other substances which pose a threat to health and safety. Typical activities include, but are not limited to, the production of handcrafted goods, electronics-intensive equipment, components related to instrumentation and measuring devices, bio-medical and telecommunications technologies, computer parts and software, optical and photographic equipment, and other manufacturing, processing and packaging uses meeting the criteria prescribed herein.

General manufacturing, processing and packaging establishments are those involving significant mechanical and chemical processes, large amounts of metal transfer, or extended shift operations. Typical activities include, but are not limited to: paper and textile milling; wood millwork and the production of prefabricated structural wood products; the manufacture of soaps and detergents; rubber processing and the manufacture of rubber products; the production of plastics and other synthetic materials; primary metals processes; the manufacture of vehicles, machinery and fabricated metal products; electroplating; cement making and the production of concrete; gypsum and related products; the production of chemical products, perfumes and pharmaceuticals; and the production of paving and roofing materials.

This term does not include those activities associated with petroleum processing; the manufacture of explosives and toxic chemicals; waste disposal and processing; and/or the processing of salvage, scrap and junk materials.

“Marina accessories” means land uses on harbor fast lands, which are supportive of recreational marine activities, including piers or boathouses, storage and repair of boats, clubhouses, sale of boating supplies and fuels, ice and cold storage facilities, hoists, launching ramps, wash racks, and other uses customary and incidental to marine recreation.

“Medical clinic” means an office building or group of offices for persons engaged in the practice of a medical or dental profession or occupation. A medical clinic does not have beds for overnight care of patients but can involve the treatment of outpatients. A “medical profession or occupation” is any activity involving the diagnosis, cure, treatment, mitigation or prevention of disease or which affects any bodily function or structure.

“Meeting facilities” means permanent facilities for recreational, social or multipurpose use. These may be for organizations operating on a membership basis for the promotion of members’ mutual interests or may be primarily intended for community purposes. Typical uses include private clubs, union halls, community centers, religious facilities such as churches, temples and synagogues and student centers.

“Monasteries” or “convents” means facilities which provide dwelling or lodging units to clergy members or those who have taken religious vows, which are owned or operated by a religious organization.

N

“Neighborhood grocery store” means small retail establishments which provide a variety of goods to the surrounding community, typically known as “mom and pop” grocery stores. Excluded are drive-thru facilities. These establishments are located in country, residential, apartment, industrial or agricultural zoning districts and were nonconforming uses prior to the adoption of this chapter but shall be permitted under the provisions of this chapter.

“Nonconforming dwelling unit” means any combination of legally established one-family or two-family detached dwellings that exceed the permitted maximum number currently allowed on a single zoning lot.

“Nonconforming lot” means a zoning lot which was previously lawful but which does not comply with the applicable lot requirements of the district in which it is located, either on October 22, 1986 or as a result of any subsequent amendment to this chapter, a zoning map amendment, or government action associated with eminent domain.

“Nonconforming parking” means parking spaces and parking areas which were previously lawful but which do not conform to current parking standards, including number, dimensions and arrangement of spaces; surface treatment; and landscaping and screening, either on October 22, 1986 or as a result of any subsequent amendment to this chapter, a zoning map amendment, or government action associated with eminent domain.

“Nonconforming structure” means a structure which was previously lawful but which does not comply with the sign, density, yard, setback or height regulations of the district, or design requirements of the special district in which it is located, either on October 22, 1986 or as a result of any subsequent amendment to this chapter, zoning map amendment, or government action associated with eminent domain.

“Nonconforming use” means any use of a structure or a zoning lot which was previously lawful but which does not conform to the applicable use regulations of the district in which it is located, either on October 22, 1986 or as a result of any subsequent amendment to this chapter, or a zoning map amendment.

O

“O’ahu historic preservation commission” means the O’ahu historic preservation commission established pursuant to Section 3-10.3.

“Off-site joint development” means the development of two or more zoning lots under a single or unified density. Under off-site joint development, floor area normally attributable to a donor lot is allocated to and may be used on a receiving lot.

“Ohana dwelling unit”; “ohana dwelling”; and “ohana unit” mean a second dwelling unit permitted pursuant to the provisions of HRS Section 46-4(c); and of Ordinance 3234 (adopting the Comprehensive Zoning Code), as amended; and thereafter of Ordinance 86-96 (adopting the Land Use Ordinance), as amended.

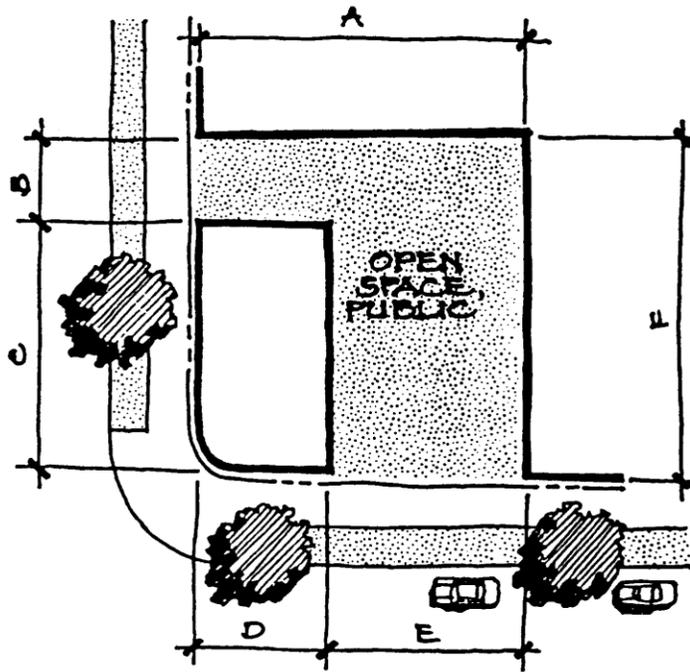
“Open land” means land which may be improved, but which contains no structures, and which is set aside, designated or reserved for public or private recreational use or enjoyment, including but not limited to picnic grounds, beaches, beach accesses, greenways and areas for hiking, fishing, hunting, and other scenic interests.

“Open space” means any portion of a zoning lot essentially free of structures that serves the purpose of visual relief and buffering from building and structural mass. These areas may be privately or publicly owned, and may or may not be accessible to the general public. Open space includes but is not limited to parks, playgrounds, playfields, plazas, outdoor dining areas, botanical gardens, fountains, reflecting pools and other bodies of water, walkways and nonbuildable easements. Simple structures which contribute to the enjoyment of the area may be permitted, including stages for performances, street furniture, sculpture, umbrellas, and other similar features. In determining whether an area is open space, the following shall apply:

- (1) It shall be unobstructed from its lowest level to the sky, except for umbrellas, and unsupported roof eaves and roof overhangs.
- (2) It shall be at finish grade unless otherwise specified in this chapter.
- (3) It shall not be used for parking, loading, maneuvering of vehicles, or storage of equipment or refuse.
- (4) A required yard may be considered open space.

Open Space, Public. “Public open space” means open space that is accessible to the public at all times, not including required yards, except where permitted. It adjoins a public street, public way, pedestrian easement or public open space such as a park, playground or shoreline area, for at least 20 percent of its perimeter at an

Figure 21-10.5
OPEN SPACE, PUBLIC



PERIMETER CALCULATION
 $(A+B+C+D+E+F) = P$
 $P \times 20\% \leq B+E$

“Owner” means the recorded owner of land in fee simple.

P

“Parking lot” means an open area of land other than a street used or intended to be used to provide space for the parking of motor vehicles for private purposes or is available to the public. It shall include parking spaces, loading spaces, maneuvering aisles and other areas providing access to parking or loading spaces but does not mean an area providing four or less spaces accessory to dwelling units. The term also includes parking of vehicles for sale or rental.

“Personal services” means establishments which offer specialized goods and services purchased frequently by the consumer. They include barbershops, beauty shops, garment repair, laundry cleaning, pressing, dyeing, tailoring, shoe repair and other similar establishments. The term also includes commercial wedding chapels and services.

“Plant nurseries” means land, greenhouses, or other similar type of agricultural structures used to raise flowers, shrubs and other plants primarily for wholesale sales. The term includes establishments where retail sales of agricultural products, which are raised or grown on-site in containers or directly in the ground, occur. This term does not include retail establishments that are typically categorized as garden shops, which sell to retail customers items other than plants, such as pots and planters; gardening supplies, implements and tools; mulch, potting soil, and fertilizers; decorations, books, and cards.

“Plantation community subdivision” means a plantation community subdivision as defined under HRS Section 205-4.5(a)(12).

“Porte cochere” means a covered access drive or walkway leading to the entrance of a building.

“Public uses and structures” means uses conducted by or structures owned or managed by the federal government, the State of Hawaii or the city to fulfill a governmental function, activity or service for public benefit and in accordance with public policy. Excluded are uses which are not purely a function, activity or service of government and structures leased by government to private entrepreneurs or to nonprofit organizations. Typical public uses and structures include: libraries, base yards, satellite city halls, public schools and post offices.

R

“Real estate office” means an establishment involved in real estate transactions that include but are not limited to the following:

- (1) Selling, buying or negotiating the purchase, sale or exchange of real estate; or
- (2) Listing, soliciting for prospective purchasers, leasing, renting or managing any real estate, or the improvements thereon, for others.

“Receive-only antennas” means antennas used for radio frequency (RF) or microwave receptions only, including but not limited to receptions for television, except as provided under the definition of telecommunications antennas or utility installations.

“Receiving lot” means a zoning lot that may, under off-site joint development approval, utilize floor area normally attributable to a donor lot.

Recreation Facilities, Outdoor. “Outdoor recreation facilities” means permanent facilities for active outdoor sports and recreation, other than golf courses. Typical uses include: parks, playgrounds, botanical gardens, golf driving ranges, tennis courts, riding stables, academies and trails, and recreational camps.

“Reflective surfaces” means any glass or other specular surface such as polished metal, specified in manufacturer’s literature, having reflectance (designated by such terminology as average daylight reflectance, visible light reflectance, visible outdoor reflectance and comparable terms) of over 30 percent.

“Repair establishments, minor and major” means establishments which primarily provide restoration, reconstruction and general mending and repair services. “Minor repair establishment” uses include those repair activities which have little or no impact on surrounding land uses and can be compatibly located with other businesses. “Major repair establishment” uses include those repair activities which are likely to have some impact on the environment and adjacent land uses by virtue of their appearance, noise, size, traffic generation or operational characteristics.

- (1) Minor.
- (A) Automobile (including pickup trucks), motorcycle, moped, motorized bicycle, boat engine, motorized household appliance (e.g., refrigerator, washing machine, dryer) and small equipment (e.g., lawn mower) repairing, including painting, provided all repair work is performed within an enclosed structure in other than the industrial districts, and does not include repair of body and fender, and straightening of frame and body parts.
 - (B) Production and repair of eyeglasses, hearing aids and prosthetic devices.
 - (C) Garment repair.
 - (D) General fixit shop.
 - (E) Nonmotorized bicycle repair.
 - (F) Radio, television and other electrical household appliance repair.
 - (G) Shoe repair.
 - (H) Watch, clock, jewelry repair.
- (2) Major.
- (A) Blacksmiths.
 - (B) Ship engine cleaning and repair.
 - (C) Airplane motor repair and rebuilding.
 - (D) Furniture repair.
 - (E) Industrial machinery and heavy equipment repair.
 - (F) Bus and truck repair.
 - (G) Repair of vehicle (all types) body and fender, and straightening of frame and body parts.

“Resource extraction” means the mining of minerals, including the exploration for, and the removal and processing of natural accumulations of sand, rock, soil and gravel.

“Retail establishments” means the sale of commodities or goods to the consumer and may include display rooms and incidental manufacturing of goods for retail sale on premises only. Typical retail establishments include grocery and specialty food stores, general department stores, drug and pharmaceutical stores, hardware stores, pet shops, appliance and apparel stores, motorized scooter and bicycle sales and rentals, and other similar retail activities. This term also includes establishments where food or drink is sold on the premises for immediate consumption, but which lack appropriate accommodations for on-premise eating and drinking. The term does not include open storage yards for new or used building materials, yards for scrap, salvage operations for storage or display of automobile parts, service stations, repair garages or veterinary clinics and hospitals.

“Retaining wall” means that portion of a wall which resists the lateral displacement of soil or other material up to a maximum height of six inches above the finish grade of the retained material.

“Rooming” means a use accessory to the principal use of a dwelling unit in which overnight accommodations are provided to persons (“roomers”) for compensation for periods of 30 days or more in the same dwelling unit as that occupied by an owner, lessee, operator or proprietor of the dwelling unit.

S

“Self-storage facility” means a structure, or structures, containing individual locker compartments which allow individuals access to store possessions in these compartments. Each locker or storage area is self-contained, with provisions to secure each individual locker or storage area.

“Shopping center” means a group of retail stores and service establishments developed under a single or unified project concept, on one or more zoning lots having an aggregate floor area exceeding 40,000 square feet.

“Short-term bicycle parking” means bicycle parking for customers and visitors of an establishment in convenient, accessible, and visible areas.

Signs. See Article 7 for all terms related to signs.

“Slope” means the incline of grade across the buildable area of a zoning lot, expressed as a percentage and calculated by the following formula:

$$\frac{\text{Highest elevation point} - \text{Lowest elevation point}}{\text{Horizontal linear distance between highest and lowest points}} \times 100$$

“Special management area use permit” means a permit defined by and implemented under Chapter 25, ROH 1990, as amended. (Commonly known as shoreline management permit.)

“Special needs housing for the elderly” means housing developments which meet one of the following criteria and which require a modification in district regulations pursuant to Section 21-2.90-2(e):

- (1) Provide aging-in-place dwelling units or assisted living facilities, or a combination of both, for residents of a minimum age of 60 years. Aging-in-place dwelling units typically include a congregate residential setting, such as communal dining facilities and services, housekeeping services, organized social and recreational activities, transportation services and other support services appropriate for elderly residents. Assisted living facilities typically include residences for the frail elderly and provide services such as meals, personal care, and supervision of self-administered medication; or
- (2) Provide single-room-occupancy dwelling units for residents of a minimum age of 60 years. Single-room-occupancy units typically include small units to accommodate one person. Amenities such as bathrooms, kitchens and common areas may be either shared with other residents, or included within the unit. This type of housing development may be designed to serve as emergency housing for the homeless elderly, transitional housing for the elderly who are progressing to permanent housing, or as permanent housing for the elderly.

The foregoing criteria shall not apply to any resident manager, the manager’s immediate family, and the dwelling unit occupied by them.

“State historic preservation officer” means that officer appointed by the governor as provided in HRS Section 6E-5.

“State register of historic places” means the Hawaii register of historic places as provided for in HRS Chapter 6E.

“Stockpiling” means the temporary open storage of earthen materials upon any premises except the premises for which a grading permit has been issued for the purpose of using the materials as fill material at some other premises at a future time.

“Street” means any public right-of-way for vehicle purposes or a private right-of-way for vehicle purposes, which provides access to more than two zoning lots and does not include freeways (controlled-access facilities) which are defined under HRS Chapter 264-61, as amended.

“Street frontage” means that portion of a zoning lot which has access rights to a street abutting the lot.

Street, Major. “Major street” means a street of considerable continuity which can carry a large volume of traffic and is used primarily as a route between communities and large urban areas or from one section of the city to another.

Street, Minor. “Minor street” means a street other than a major or secondary street providing access to abutting property and serving local traffic only.

Street, Secondary. “Secondary street” means a street which carries or collects traffic from minor streets either directly or via other secondary streets.

“Street setback line” means a future right-of-way line for a street or highway as located and/or dimensioned under adopted street right-of-way maps and standards.

“Structure” means anything above existing grade constructed or erected with a fixed location on the ground, or requiring a fixed location on the ground, or attached to something having or requiring a fixed location on the ground. The term “structure” includes the term “building.”

T

“Tandem parking” means two or more parking spaces configured one behind the other.

“Theaters” means facilities which are used primarily for the performing arts or for the viewing of motion picture films. Included are performing arts centers, concert halls and other types of live theaters. Drive-in theaters are excluded.

“Time sharing” means the ownership and/or occupancy of a dwelling or lodging unit regulated under the provisions of HRS Chapter 514E, as amended, relating to time share plan and time share unit hereinafter defined:

- (1) “Time share plan” means any plan or program in which the use, occupancy or possession of one or more time share units circulates among various persons for less than a 60-day period in any year for any

occupant. The term "time share plan" shall include both time share ownership plans and time share use plans, as follows:

- (A) “Time share ownership plan” means any arrangement whether by tenancy in common, sale, deed or by other means, whereby the purchaser received an ownership interest and the right to use the property for a specific or discernible period by temporal division.
 - (B) “Time share use plan” means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a time share unit for a specific or discernible period by temporal division, but does not receive an ownership interest.
- (2) “Time share unit” means the actual and promised accommodations and related facilities, which are the subject of a time share plan; and, may be either a hotel, transient vacation, or multi-family dwelling unit.

“Trade or convention center” means a structure or structures capable of accommodating 10,000 or more persons assembling for a common purpose such as, but not limited to, professional or business conventions, concerts, short-term retail or wholesale activities, the large-scale marketing, buying or selling of goods or services, or sporting events. A trade or convention center may include accessory hotel, multifamily dwellings and retail or other commercial uses.

“Transient vacation unit” means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of transient occupants.

“Transmitting antenna” means any antenna used for radio frequency (RF) or microwave transmissions other than an independent operational fixed-point (unidirectional) or receive-only antenna. This definition is provided to determine which antennas are required to provide fencing or other barriers to restrict public access within a delineated exclusion distance as may be required by this chapter.

“Travel agency” means an establishment that acts or attempts to act as an intermediary between a person seeking to purchase and a person seeking to sell travel services. Typical travel services include transportation by air, sea or rail; related group transportation; hotel accommodations; or package tours, whether offered on a wholesale or retail basis.

U

“Use” means and refers to either one of the following:

- (1) Any purpose for which a structure or a tract of land is designed, arranged, intended, maintained or occupied; or
- (2) Any activity, occupation, business or operation carried on, or intended to be carried on, in a structure or on a tract of land.

“Utility installations, Types A and B,” means uses or structures, including all facilities, devices, equipment, or transmission lines, used directly in the distribution of utility services, such as water, gas, electricity, telecommunications other than broadcasting antennas, and refuse collection other than facilities included under waste disposal and processing. A utility installation may be publicly or privately owned and does not include wind machines, which are defined separately. Also not included are: cesspools, individual household septic tank systems, individual household aerobic units, and individual water supplies.

Also not included are private temporary sewage treatment plants which are allowed as an accessory use in all zoning districts, provided such use is approved by the director. These uses so approved shall be permitted notwithstanding the location on a noncontiguous lot or in another zoning district of the principal use or uses served by the plant, and subdivision (1) of the definition of accessory use shall be inapplicable.

A utility installation includes accessory uses and structures directly associated with the distribution of the utility service, such as, but not limited to: accessory antennas, maintenance, repair, equipment, and machine rooms; tool sheds; generators and calibration equipment; and accessory offices. Offices permitted as accessory to a utility installation shall be directly associated with the distribution of the utility service, and not principally function as a business or executive center for the utility operation.

Type A utility installations are those with minor impact on adjacent land uses and typically include: 46 kilovolt transmission substations, vaults, water wells and tanks and distribution equipment, sewage pump stations, telecommunications antennas (except as provided in the paragraph below on Type B utility installations), and other similar uses.

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Type B utility installations are those with potential major impact, by virtue of their appearance, noise, size, traffic generation or other operational characteristics. Typical Type B uses include: 138 kilovolt transmission substations, power generating plants, base yards, and other similar major facilities. Also included as Type B uses are transmitting antennas in country, residential, A-1, or AMX-1 districts, and freestanding antenna structures.

V

“Vending cart” means a stand-alone, portable outdoor cart on wheels used to dispense prepared food and drinks, or merchandise for retail sale. It shall be considered a retail use and structure, although not fixed to a particular location for more than 24 hours at a time, and is not fixed at any point to the ground or another structure. No more than one umbrella or canvas overhead may be directly attached to these structures. Associated food preparation activities are limited to warming and steaming, and the dispensing of condiments.

W

“Warehousing” means establishments primarily associated with the storage of raw materials, finished products, merchandise or other goods, within a structure for subsequent delivery, transfer or pickup, and may include structures used primarily for the storage of files or records.

“Waste disposal and processing” means facilities for the disposal and processing of solid waste, including refuse dumps, sanitary landfills, incinerators and resource recovery plants.

“Wet bar” means a serving counter in a dwelling or lodging unit that is equipped with small single compartment sink that is not a part of a kitchen, bathroom, or laundry room.

“Wholesaling and distribution” means establishments primarily involved in the sale and/or distribution of manufactured and/or processed products, merchandise or other goods in large quantities for subsequent resale to retail establishments, and/or industrial, institutional and commercial users.

“Wind machines” means devices and facilities, including appurtenances, associated with the production and transmission of wind-generated energy.

Y

“Yard” means an open space required for the purpose of light and air access, bounded on at least one side by a property line, measured at right angles from the property line or the established street setback line (see “Yard, front”) and unobstructed by any structure or portion of a structure, except as specifically permitted.

Yard, Front. “Front yard” means any yard bounded by a street except that a single yard may be designated as a front yard by the owner of a zoning lot containing a single-family or two-family dwelling unit or a duplex bounded by more than one street in residential districts. The front yards designated must conform to district regulations for front yards. All front yards are measured at right angles to the street right-of-way or the established street setback line, whichever is the greater distance from the street center line set by adopted street right-of-way maps and standards (see Figure 21-10.6).

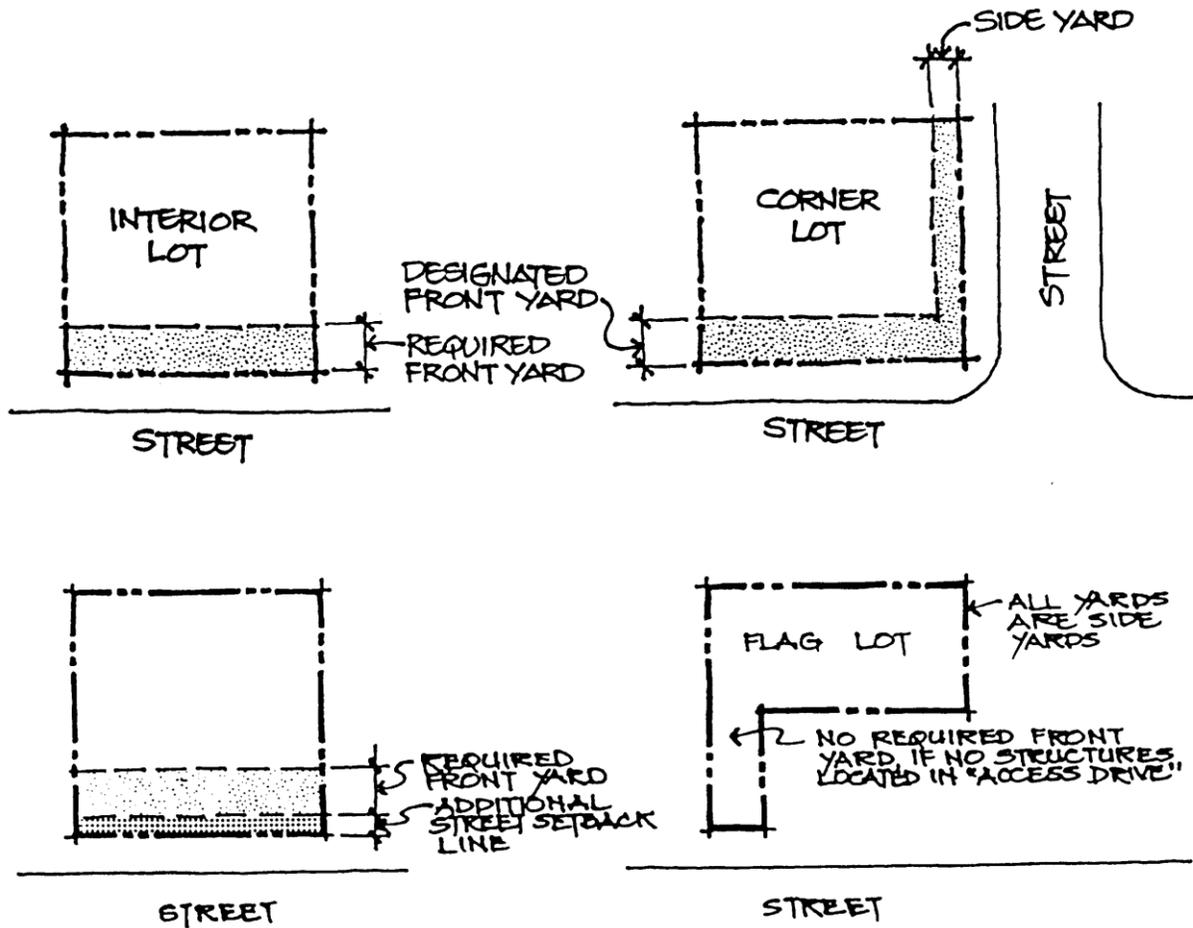
Yard, Rear. “Rear yard” means a yard extending across a zoning lot at the opposite end of the lot from the front yard, except that when a zoning lot has more than one front yard, there will be no rear yards but only front and side yards.

Yard, Side. “Side yard” means a yard extending from the rear line of a required front yard to the lot line at the opposite end of the zoning lot or in the absence of a clear definition of such a lot line, to the point on the lot farthest from the street side of a front yard. For lots with more than one front yard, the side yards are any yards remaining after the front yards have been established.

Z

“Zoning lot” means a lot or any portion of a lot, excluding right-of-way lots, within a single zoning district, or precinct, except as permitted under joint development.

Figure 21-10.6
YARD, FRONT



(Added by Ord. 99-12; Am. Ord. 00-09, 01-12, 02-63, 03-37, 06-15, 09-26, 10-19, 14-9, 15-41, 17-40, 17-55, 19-3, 19-18)

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