

Chapter 21.03 Definitions and Rules of Construction

Chapter 21.03

DEFINITIONS AND RULES OF CONSTRUCTION

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21.03.010 Tense, number, and gender.

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21.03.010 Tense, number, and gender. As used in this title, when not inconsistent with the context, the present tense includes the future; the singular number includes the plural and the plural includes the singular; and words of any gender may, when the sense so indicates, refer to any other gender. (Ord. 08-29, 2008).

21.03.020 Words and phrases. As used in this title,

a. Words and phrases shall be construed according to the rules of grammar and, if not defined in Title 1 or this title, according to their common and approved usage.

b. Except where the context indicates otherwise, the term "shall" is mandatory.

c. When the words "include" or "including" or "such as" are used, they shall be construed as though followed by the phrase "but not limited to" unless the context clearly indicates the contrary. (Ord. 08-29, 2008).

21.03.030 Rules of construction. In this title, unless otherwise provided, when an overlay district regulation is in irreconcilable conflict with a regulation of the underlying zoning district(s), the overlay district regulation supersedes the conflicting underlying zoning district regulation. (Ord. 08-29, 2008).

21.03.040 Definitions used in zoning code. As used in this title, the words and phrases defined in this section shall have the meaning stated, except where (1) the context clearly indicates a different meaning or (2) a special definition is given for particular chapters or sections of the zoning code.

"Abut" means to touch by sharing a common boundary at one or more points. Two adjacent lots separated by a road right-of-way do not abut.

"Accessory use" means a use or activity that is customary to the principal use on the same lot, and which is subordinate and clearly incidental to the principal use.

"Accessory building" means an incidental and subordinate building customarily incidental to and located on the same lot occupied by the principal use or building, such as a detached garage incidental to a residential building.

"ADT" or "average daily traffic" means the estimated number of vehicles traveling over a given road segment during one 24 hour day. ADT is usually obtained by sampling and may be seasonally adjusted.

"Adverse impact" means a condition that creates, imposes, aggravates or leads to inadequate, impractical, detrimental, unsafe, or unhealthy conditions on a site proposed for development or on off-site property or facilities.

"Aggrieved." See "person aggrieved."

"Agricultural activity" shall mean farming, including plowing, tillage, fertilizing, cropping, irrigating, seeding, cultivating or harvesting for the production of food and fiber products (excluding commercial logging and timber harvesting operations); the grazing or raising of livestock (excluding feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise. "Agricultural activity" excludes private stables and public stables.

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"Agricultural building" means a building used to shelter farm implements, hay, grain, poultry, livestock, horticulture, or other farm products, in which there is no human habitation and which is not used by the public.

"Aisle" means an area within a parking lot that is reserved exclusively for ingress, egress and maneuvering of automobiles.

"Alley" means a public thoroughfare, less than thirty feet in width, that affords only a secondary means of access to abutting property.

"Alteration" means any change, addition or modification in construction, occupancy or use.

"Animal unit equivalent" is a convenient denominator for use in calculating relative grazing impact of different kinds and classes of domestic livestock. An animal unit (AU) is generally one mature cow of approximately 1,000 pounds and a calf as old as six months of age, or their equivalent. Animal unit equivalents vary according to kind and size of animals.

The following table of AU equivalents applies to the Homer Zoning Code.

Kinds and classes of animals Animal-unit equivalent

Slaughter/feed cattle 1.00

Mature dairy cattle 1.40

Young dairy cattle 0.60

Horse, mature 2.00

Sheep, mature 0.20

Lamb, one year of age 0.15

Goat, mature 0.15

Kid, one year of age 0.10

Exotic species (e.g., llamas, alpaca, reindeer, musk ox, bison and elk) and unlisted species require application to the Planning Commission for determination of AU equivalents.

"Apartment house." See "dwelling, multiple."

"Area, building" means the total area, taken on a horizontal plane at the main grade level, of a building, exclusive of steps.

"Area, floor" means the total area of all floors of a building as measured to the outside surfaces of exterior walls, including attached garages, porches, balconies, and other structures when covered by a roof.

"Area, footprint" has the same meaning as "area, building."

"Area, lot" means the total horizontal net area within the boundary lines of a lot, exclusive of rights-of-way for streets and alleys.

"Area ratio, floor" or "floor area ratio" means the ratio of floor area of all buildings on a lot to the area of the lot.

"Arterial" means a street whose principal function is the transmission of vehicular through-traffic, that performs a major role in serving the transportation needs of the community, and that is identified as a "major arterial" or "community arterial" in the Homer Roads and Streets Master Plan.

"Assisted living home" has the meaning given in AS 47.32.900.

"Auto repair" means service and repair of motor vehicles, trailers and similar mechanical equipment, including painting, upholstering, rebuilding, reconditioning, body and fender work, frame straightening, undercoating, engine or transmission rebuilding or replacement, tire retreading or recapping, and the like. It also includes minor service work to automobiles or light trucks including tune up, lubrication, alignment, fuel system, brakes, mufflers, and replacement of small items.

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"Auto fueling station" means any premises used to sell motor fuels and lubrication to motor vehicles. An auto fueling station may include the sale of minor accessories. Auto fueling station does not include auto repair.

"Auto and trailer sales or rental area" means an automobile related use that may consist of any combination of the following:

- a. An open, outdoor display area for automobiles, light trucks or trailers for rent, lease or sale;
- b. Buildings for the indoor display and sale or leasing of automobiles, light trucks or trailers, and sale of parts and accessories customarily incidental to the sale of such vehicles; and
- c. Buildings at the location of a motor vehicle dealership used for auto repairs customarily incidental to the operation of a dealership.

"Basement" means any floor level partly or wholly underground, except when such floor level meets the definition of "story."

"BCWP District" means the "Bridge Creek Watershed Protection District" described in HCC Chapter 21.40.

"Bed and breakfast" means a dwelling in which an individual or family resides and rents bedrooms in the dwelling to overnight guests, if the bed and breakfast use is accessory to the principal use of the dwelling as the primary residence of the operator. If the dwelling has six or more bedrooms available for rental to overnight guests it is a hotel and not a bed and breakfast.

"Bluff" means an abrupt elevation change in topography of at least 15 feet, with an average slope of not less than 200% (two feet difference in elevation per one foot of horizontal distance).

"Boat storage yard" means a lot used for the indoor or outdoor commercial dry storage of boats.

"Bridge Creek Watershed" means the watershed contributing to the City's reservoir at Bridge Creek.

"Buffer" means an open space, landscaped area, fence, wall, berm, or any combination thereof used to physically separate or screen one use or property from another so as to shield or block visibility, noise, lights, or other undesirable effects.

"Buffer, runoff" means an area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and that provides for infiltration of the runoff and filtering of silt and pollutants. The buffer is measured landward from the normal full water elevation of impounded structures and from the top of the bank of each side of a stream, river, ditch, or other channel.

"Buffer, stream" means a runoff buffer of a designated distance on each side of a channel measured perpendicularly from the top of the bank of each side of a stream, river, ditch, or other channel.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Building construction" means the placing of construction materials in a permanent position and fastened in a permanent manner in the course of constructing or erecting a building.

"Building height" is the vertical distance from grade to the maximum point of measurement of the building, measured according to HCC § 21.05.030.

"Building, main" means the building of chief importance or function on the lot.

"Business, open air" or "open air business" means the retail sale or display of merchandise or services, including but not limited to farmers' markets and flea markets, conducted outdoors or under a canopy for protection from the elements and held on a regular or periodic basis. Open air business does not include (1) outdoor display or sales of goods or services by a retail or wholesale business that is principally located in a building, (2) or sales, services or rentals of any kind of boat or motorized vehicle.

"Business, retail" means a place of business principally engaged in selling goods, substances or commodities in small quantities to the ultimate consumer, and may include rendering services incidental to the sale of such goods, substances or commodities. The term "retail business" does not include, as either a principal or accessory use,

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automobile oriented uses, the sale, rental, storage, service, or repair of any motor vehicles, or any use separately defined or listed in any zoning district.

"Business, wholesale" or "wholesale" means a place of business principally engaged in selling or distributing goods, substances or commodities in quantity to retailers or to industrial, commercial or institutional users mainly for resale or business use.

"Campground" means a parcel of land where two or more campsites are located that provides facilities for temporary recreational living in any manner other than a permanent building.

"Cemetery" means land used or intended to be used for burial of the dead and dedicated for cemetery purposes, including columbaria and mausoleums when operated in conjunction with and within the boundary of such cemetery.

"Channel protection storage volume" or "Cpv" means the volume used to design structural management practices to control stream channel erosion.

"Church." See "religious, cultural, and fraternal activity."

"City Engineer" means an engineer within the Homer Department of Public Works designated by the Director of Public Works.

"Clearing" means the removal of trees and brush from the land, but shall not include the ordinary pruning of trees or shrubs or mowing of grass.

"Clinic" means a professional office with facilities for providing outpatient medical, dental or psychiatric services, which may include as incidental to the principal use a dispensary to handle medication and other merchandise prescribed by occupants in the course of their professional practices.

"Coalescing plate separators" or "CPS" are oil/water separators that employ a series of oil-attracting plates. Oil droplets collect and float to the surface, where they can be skimmed off or removed mechanically and may be installed above or below ground.

"Coastal bluff" means a bluff whose toe is within 300 feet of the mean high water line of Kachemak Bay.

"Cold storage" means a building equipped with refrigeration or freezing facilities that provides cold or frozen storage or freezing services.

"Commercial vehicle" means any motor vehicle defined in AS 28.40.100 as a commercial motor vehicle or any motor vehicle with signs or logos exceeding nine square feet in combined area.

"Commission" means the Homer Advisory Planning Commission.

"Community Design Manual" means the Community Design Manual for the City of Homer, adopted by City Council Resolution 04-34, as may be amended from time-to-time.

"Comprehensive plan." See HCC § 21.02.010.

"Construction camp" means one or more buildings, trailers, mobile homes or similar structures used to house workers or employees for logging, mining, off-shore and on-shore construction, development and other projects, installed primarily for the duration of the project or operation and not open for use by the general public as accommodations or for permanent mobile home living.

"Date of distribution" means the date on which a city official mails a written decision or order issued under the zoning code or, if the document is personally delivered, the date of such personal delivery.

"Day care facility" means any establishment for the care of children, whether or not for compensation, excluding day care homes and schools. Such day care facility must also be duly licensed by the State, if so required by State law or regulation.

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"Day care home" means the principal dwelling unit of one or more persons who regularly provide(s) care , in the dwelling unit, whether or not for compensation, during any part of the 24-hour day, to eight or less children at any one time, not including adult members of the family residing in the dwelling. The term "day care home" is not intended to include baby-sitting services of a casual, nonrecurring nature, child care provided in the child's own home, or cooperative, reciprocating child care by a group of parents in their respective dwellings.

"Department" or "planning department" means the department or division of the City of Homer under the direction of the City Planner, whose functions and powers include the administration and enforcement of the zoning code as described in HCC Chapter 21.90.

"Design year" means the year that is ten years after the opening date of development.

"Detention, extended" means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events.

"Detention structure" means a permanent structure for the temporary storage of water runoff that is designed so as not to create a permanent pool of water.

"Develop" or "development activity" means to construct or alter a structure or to make a physical change to the land, including but not limited to excavations, grading, fills, road construction, and installation of utilities.

"Development" means all manmade changes or improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as public spaces, plazas and walkways, but does not include natural geologic forms or unimproved land. See also "project".

"Development, new" means development on a site that was previously unimproved or that has had previously existing buildings demolished.

"Development activity plan" or "DAP" means a plan, prepared according to standards set forth in this title, that provides for the control of stormwater discharges, the control of total suspended solids, and the control of other pollutants carried in runoff during construction and the use of the development.

"Direct discharge" means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in Critical Habitat Areas.

"Dividers" means areas of landscaping that separate from each other structures or improvements, including parking lots or buildings.

"Dog lot" means any outdoor area where more than six dogs over the age of five months are kept.

"Dormitory" means a building or portion of a building that provides one or more rooms used for residential living purposes by a number of individuals that are rented or hired out for more than nominal consideration on a greater than weekly or pre-arranged basis. A building or structure that provides such rooms on less than a weekly basis shall be classified as a "hotel" or "motel," "rooming house," or other more suitable classification. "Dormitory" excludes hotel, motel, shelter for the homeless and bed and breakfast.

"Drainage area" means that area contributing water runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

"Dredging/filling" means an activity that involves excavating along the bottom of a water body for the purpose of channeling, creating a harbor, mineral extraction, etc., and the subsequent deposition of the dredge material to build up or expand an existing land mass or to create a new one.

"Drip line" means the outer most edge of foliage on trees, shrubs, or hedges projected to the ground.

"Drive-in car wash" means automated or manual car wash facilities and equipment used for retail car wash services enclosed within a building, which may include accessory vacuum cleaning and other equipment for car interior

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detailing outside of a building.

"Driveway" means the aisle are within a parking lot which abuts designated parking spaces and which is reserved exclusively for ingress, egress and maneuvering of automobiles in and out of those spaces.

"Dwelling" or "dwelling unit" means any building or portion thereof designed or arranged for residential occupancy by not more than one family and includes facilities for sleeping, cooking and sanitation.

"Dwelling, duplex" means a building designed or arranged for residential occupancy by two families living independently, the structure having only two dwelling units.

"Dwelling, factory built" means a structure containing one or more dwelling units that is built off-site, other than a manufactured home, and: (1) is designed only for erection or installation on a site-built permanent foundation; (2) is not designed to be moved once so erected or installed; and (3) is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing.

"Dwelling, multiple-family" means a building or a portion thereof designed for residential occupancy by three or more families living independently in separate dwelling units.

"Dwelling, single family" means a detached dwelling unit designed for residential occupancy by one family.

"Easement" means a grant or reservation by the owner of an interest in land for the use of such land for a specific purpose or purposes, and which must be conveyed or reserved by an instrument affecting the land.

"Educational institution." See schools.

"Entertainment establishment" means a public or private institution or place of business providing live or pre-recorded shows or performances for entertainment.

"Extractive enterprises" means uses and activities that involve the removal of ores, liquids, gases, minerals, or other materials or substances from the earth's surface or subsurface.

"Extreme flood volume" or "Qf" means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100-year flood plain.

"Family" means an individual or two or more persons related by blood, marriage or adoption, or a group not to exceed six unrelated persons living together as a single housekeeping unit in a dwelling unit.

"Farmers' market" means a location where the primary activity is the sale of goods:

- a. Grown upon the land that the seller controls, in the case of fruits, nuts, vegetables, other plant products, or other processed agricultural products;
- b. Bred, raised, cultivated or collected by the seller, in the case of animal, poultry, viticulture, vermiculture, aquaculture, eggs, honey and bee products;
- c. Cooked, canned, preserved, or otherwise significantly treated by the seller, in the case of prepared foods; or
- d. Created, sewn, constructed, or otherwise fashioned from component materials by the seller.

"Fence height." See HCC § 21.05.030(d).

"Financial institution" means banks, credit unions, saving and loan companies, stock brokers, and similar businesses.

"Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.

"Garage, private" means a building, or a portion of a building, in which motor vehicles used only by the occupants of the building(s) located on the premises are stored or kept.

"Garage, public." See Auto Repair.

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"Garage, parking" means any building (including an underground structure), except one described as a private garage, used principally for the parking or storage of motor vehicles.

"Gardening, personal use" means gardening for personal purposes as an accessory use to the primary residential use of a lot.

"Glare" means direct light emitted by a luminaire that causes reduced visibility of objects or momentary blindness.

"Grade" in reference to adjacent ground elevation means the lowest point of elevation of the existing surface of the ground within the area between the structure and a line five feet from the structure.

"Grading" means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, or filled, or any combination thereof.

"Group care home" means a residential facility that provides training, care, supervision, treatment or rehabilitation to the aged, disabled, infirm, those convicted of crimes or those suffering the effects of drugs or alcohol. The term "group care home" does not include day-care homes, day care facilities, foster homes, schools, hospitals, assisted living homes, nursing facilities, jails or prisons.

"Guesthouse" means an accessory building without kitchen or cooking facilities and occupied solely by nonpaying guests or by persons employed on the premises.

"Guest room" means a single unit for the accommodation of guests without kitchen or cooking facilities in a bed and breakfast, rooming house, hotel or motel.

"Heliports" means any place including airports, fields, rooftops, etc., where helicopters regularly land and take off, and where helicopters may be serviced or stored.

"Highway." See streets and state highway.

"Home occupation" means any use customarily conducted entirely within a dwelling or a building accessory to a dwelling, and carried on by the dwelling occupants, that is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and includes no display of stock in trade, no outside storage of materials or equipment and no commodity sold upon the premises. "Home occupation" does not include bed and breakfast.

"Hotel" or "motel" means any building or group of buildings containing six or more guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. "Hotel" or "motel" also means any building or group of buildings containing five or less guest rooms that are used, rented or hired out to be occupied for sleeping purposes by more than fifteen guests. The terms "hotel" and "motel" exclude bed and breakfast, rooming house, dormitory, shelter for the homeless, and hostel.

"Hostel" means any building or portion of a building containing dormitory-style sleeping accommodations for not more than fifteen guests that that are used, rented or hired out on a daily or longer basis.

"Impervious Coverage" means an area of ground that, by reason of its physical characteristics or the characteristics of materials covering it, does not absorb rain or surface water. All parking areas, driveways, roads, sidewalks and walkways, whether paved or not, and any areas covered by buildings or structures, concrete, asphalt, brick, stone, wood, ceramic tile or metal shall be considered to be or have impervious coverage.

"Impound yard" means a lot, establishment, area, facility or place of business used for the temporary custody of abandoned or junk vehicles, as defined in §18.20.010 of the Homer City Code, or other abandoned or illegally stored personal property pending determination of possessory or proprietary rights therein. If impounded property is held in custody longer than six months, it shall be classified as a junk yard and not an impound yard.

"Independent business" means a business establishment that operates independently of other business establishments. If retail and wholesale business establishments have common management or common controlling ownership interests, they are not operated independently of one another.

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"Infiltration" means the passage or movement of water into the soil surface.

"Islands" when used to describe landscaped areas within parking lots, means compact areas of landscaping within parking lots designed to support mature trees and plants.

"Itinerant merchant" means a "transient or itinerant merchant" as defined in HCC 8.08.010.

"Joint use parking area" means a parking lot that contains required off-street parking spaces for more than one lot.

"Junk" means any worn out, wrecked, scrapped, partially or fully dismantled, discarded, or damaged goods or tangible materials. Junk includes, without limitation, motor vehicles that are inoperable or not currently registered for operation under the laws of the State and machinery, equipment, boats, airplanes, metal, rags, rubber, paper, plastics, chemicals, and building materials that cannot, without further alteration or reconditioning, be used for their original purpose.

"Junkyard" means any lot, or portion of a lot, that is used for the purpose of outdoor collection, storage, handling, sorting, processing, dismantling, wrecking, keeping, salvage or sale of junk.

"Kennel" means any land and any buildings thereon where three or more dogs, cats, or other animals at least four months of age are kept for boarding, propagation or sale. If a use meets the definitions of both dog lot and kennel, it shall be classified as a dog lot.

"Kitchen" any room or part of a room intended, or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall be considered as establishing a kitchen.

"Landscaping" means lawns, trees, plants and other natural materials, such as rock and wood chips, and decorative features, including sculpture.

"Level of service" or "LOS" means a qualitative measure describing operational conditions within a traffic stream, based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, and convenience. Six levels of service, from A to F, are used to represent a range of operating conditions with LOS A representing the best operating conditions and LOS F the worst.

"LOS A" means the LOS at which vehicles are almost completely unimpeded in their ability to maneuver within the traffic stream, passing demand is well below passing capacity, drivers are delayed no more than 30 percent of the time by slow moving vehicles.

"LOS B" means the LOS at which the ability to maneuver a vehicle is only slightly restricted; passing demand approximately equals passing capacity, and drivers are delayed up to 45 percent of the time; the level of physical and psychological comfort provided to drivers is still high.

"LOS C" means the LOS at which the ability to maneuver a vehicle is noticeably restricted and lane changes require more care and vigilance on the part of the driver; percent time delays are up to 60 percent; traffic will begin to back up behind slow moving vehicles.

"LOS D" means the LOS at which speeds begin to decline with increasing traffic flow, density begins to increase somewhat more quickly, passing demand is very high while passing capacity approaches zero, and the driver experiences reduced physical and psychological comfort levels; the percentage of time motorists are delayed approaches 75 percent, even minor incidents can be expected to back up traffic because the traffic stream has little space to absorb disruptions.

"LOS E" means the LOA at which roadway is at capacity; the percentage of time delay is greater than 75 percent, passing is virtually impossible, as there are virtually no usable gaps in the traffic stream; vehicles are closely spaced, leaving little room to maneuver, physical and psychological comfort afforded to the driver is poor.

"LOS F" means the LOA at which traffic is heavily congested with traffic demand exceeds traffic capacity, there is a breakdown in vehicular flow, and vehicle delay is high.

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"Light trespass" means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

"Living ground cover" means low growing, spreading, perennial plants that provide continuous coverage of the area.

"Living plant life other than ground cover" means plants, including but not limited to, trees, flower beds, rock gardens, shrubs and hedges.

"Loading space" means an off-street space on the same lot with a building or contiguous to a group of buildings, designated or intended for the use of temporarily parked commercial vehicles while loading and unloading, and that abuts upon a street, alley or other appropriate means of access.

"LOS." See level of service.

"Lot" means a single parcel of land of any size, the boundaries of which have been established by some legal instrument of record, that is recognized and described as a unit for the purpose of transfer of ownership. It may shown on a subdivision plat map, or record of survey map, or described by metes and bounds and recorded in the office of the District Recorder. "Lot" includes tracts and parcels of land of any size or shape.

"Lot, corner" means a lot situated at the intersection of two or more streets having an angle of intersection of not more than one hundred thirty-five degrees.

"Lot depth" means the horizontal distance between the front and rear lot lines measured on the longitudinal centerline.

"Lot, interior" means a lot other than a corner lot.

"Lot line, front" means the shortest lot line that is a street line. In the case of (i) a square, or nearly square-shaped corner lot, or (ii) a through lot, the owner may choose which street to designate as the front of the lot by giving written notice to the department. Once the choice of frontage has been made, it cannot be changed unless all requirements for yard space with the new front lot line are satisfied.

"Lot line, rear" means a lot line that is opposite and most distant from the front lot line and in case of an irregular or triangular lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

"Lot line, side" means any lot boundary line that is not a front lot line or rear lot line.

"Lot, through" means a lot having a frontage on two parallel or approximately parallel streets.

"Lot width" means the width of a lot calculated according to section 21.05.050.

"Luminaire" means a complete lighting unit, including a lamp or lamps together with parts to distribute light.

"Luminaire, cut-off" means a luminaire that allows no direct light from the luminaire above the horizontal plane through the luminaire's lowest light emitting part, in its mounted form either through manufacturing design or shielding.

"Luminaire, height of" means the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct light emitting part of the luminaire.

"Ministorage" means one or more buildings containing units available for rent for the purpose of the general storage of household goods and personal property in which each unit is (i) separated from all other such units, (ii) is fully enclosed, and (iii) does not have an area greater than six hundred square feet.

"Mitigation plan" means a plan designed to mitigate the effect of impervious cover on water flow and loss of ground cover, and may include systems of water impoundment, settling ponds, grease and sand traps, and leach fields among others.

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"Mobile commercial structure" means a structure constructed as a movable or portable unit, capable of being transported on its own chassis or wheels, that is designed for nonpermanent uses and placed on a nonpermanent foundation and is used in any activity that promotes, supports or involves a land use permitted outright in the zoning district in which the mobile commercial unit is to be placed.

"Mobile food service" has the meaning defined in HCC 8.11.020 and, for purposes of the zoning code, is treated as a temporary business.

"Mobile home" or "manufactured home" means a structure, transportable in one or more sections: (1) that in the traveling mode is 8 feet or more in width or 40 feet or more in length, or when erected on site is 320 square feet or more; and (2) that is built on a permanent chassis and is designed for use as a dwelling with or without a permanent foundation when the plumbing, heating, and electrical systems contained therein are connected to the required utilities. A mobile home shall be construed to remain a mobile home whether or not wheels, axles, hitch or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a recreational vehicle or a factory built dwelling.

"Mobile home park" means one or more lots developed and operated as a unit with individual sites and facilities to accommodate two or more mobile homes.

"Native vegetation" means native plant communities that are undisturbed or mimicked.

"Natural or man-made features" means features in landscaping other than plants, including but not limited to, boulders, or planters.

"Nonconforming lot." See HCC § 21.61.010.

"Nonconforming structure." See HCC § 21.61.010.

"Nonconforming use." See HCC § 21.61.010.

"Nursing facility" means a facility that is primarily engaged in providing skilled nursing care or rehabilitative services and related services for those who, because of their mental or physical condition, require care and services above the level of room and board. "Nursing facility" does not include a facility that is primarily for the care and treatment of mental diseases or an assisted living home.

"Occupancy" means the purpose for which a building is used or intended to be used. The term may also include the building or room housing such use. Change of occupancy does not result from a mere change of tenants or proprietors.

"Office" means a physical location designed for or, used as, the office of professional, business, administrative, institutional, charitable, personal service or public organizations or persons, but does not include direct retail or wholesale sale of goods except for those sales that are clearly incidental to the principal office use.

"Office, general business" means an office maintained and operated for the conduct of management level administrative services or in which individuals or entities are provided services in office settings in the nature of government, business, real estate, insurance, property management, title companies, investment and financial, personnel, travel, and similar services, including business offices of public utilities or other activities when the service rendered is a service customarily associated with office services. Offices that are part of and are located with a business or industrial firm in another category are considered accessory to that firm's primary activity. Professional office is excluded.

"Office, professional" means an office maintained and operated for the conduct of a professional business or occupation requiring the practice of a learned art or science through specialized knowledge based on a degree issued by an institute of higher learning, including but not limited to medicine, dentistry, law, architecture, engineering, accounting, and veterinary medicine. General business office and clinic are excluded.

"Off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, wetland, or other natural terrain, except that such terms exclude (a) registered motorboats, (b) military, fire emergency, and law enforcement vehicles when used for such military, emergency,

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and law enforcement purposes, and (c) any vehicle whose use is expressly approved by the City of Homer.

"Oil water separators" means passive, physical separation systems, designed for removal of oils, fuels, hydraulic fluids, and similar products from water. They are generally large-capacity, underground cement vaults installed between a drain and the connecting storm drain pipe. These vaults are designed with baffles to trap sediments and retain floating oils. The large capacity of the vault slows down the wastewater, allowing oil to float to the surface and solid material to settle out.

"Open space" means an area reserved or developed for recreational uses or preserved for its natural amenities. Open space may include squares, parks, bicycle and pedestrian paths, refuges, campgrounds, picnic areas, playgrounds, and gardens. "Open space" does not include outdoor recreation facilities.

"Overbank flood protection volume" or "Qp" means the volume controlled by structural practices to prevent an increase in the frequency of out of bank flooding generated by development.

"Overlay district" means a defined area with supplementary regulations that is superimposed upon all or part of one or more underlying zoning districts. The boundaries of an overlay district are usually shown on the official map, but may be established by description.

"Overslope development" means an overslope platform and the structures located on the overslope platform.

"Overslope platform" means an elevated horizontal structure designed to support buildings that are located above the slope between an upland lot and the water of the Homer small boat harbor.

"Parking lot" means an off-street, ground level open area, usually improved, containing parking spaces for motor vehicles.

"Parking lot, double-loaded" means all or any portion of a parking lot in which there are parking spaces on both sides of the driving aisle.

"Parking lot, single-loaded" means all or any portion of a parking lot in which there are parking spaces on only one side of the driving aisle.

"Parking space" is a space in a parking lot that is reserved for the parking of a vehicle.

"Parking stall" is synonymous with "parking space."

"Peak hour" in reference to traffic means a one hour period representing the highest hourly volume of traffic flow on the adjacent street system during the morning (a.m. peak hour), during the afternoon or evening (p.m. peak hour) or representing the hour of highest volume of traffic entering or exiting a site (peak hour of generator).

"Pedestrian way" means a maintained walkway or path, no less than four feet wide, that connects two or more focal points of pedestrian activity, including other pedestrian ways, trails, transit stops, street or parking area crossings, or building entry points. Sidewalks may be pedestrian ways.

"Performance standards" means minimum requirements or maximum allowable limits on the effects or characteristics of a use.

"Permeable, continuous non-living ground cover" means landscaping surfaces made up of materials such as, but not limited to, crushed rock, bark and mulch.

"Permit" means any permit, approval or other authorization issued by the City under the authority of the Homer Zoning Code or regulations.

"Person aggrieved" means a person who shows proof of the adverse effect an action or determination taken or made under the Homer Zoning Code has or could have on the use, enjoyment, or value of real property owned by that person. An interest that is no different from that of the general public is not sufficient to establish aggrievement.

"Personal service" means a business primarily engaged in providing services involving the care of an individual or

his or her personal goods or apparel.

"Pipeline" means a line six inches or larger, which may include accessory pumps, valves and control devices, for conveying liquids, gases or finely divided solids that are constructed within rights-of-way or easements or from one parcel to another. However, for the purpose of securing a conditional use permit the following are excluded: the mains, hydrants, pumps, services, and pressure stations of the City of Homer Water Utility; the mains, services, manholes and lift stations of the City of Homer Sewer Utility and the local service mains, valves and services of a gas utility legally authorized to provide such service within the City.

"Planned unit development" or "PUD" means a residential, commercial, office, industrial, or other type of development, or a combination thereof; approved under the conditional use procedures and applicable provisions of this title and characterized by comprehensive planning for the entire project, the clustering of buildings to preserve open space and natural features, and provision for the maintenance and use of open space and other facilities held in common by the property owners within the project.

"Planning Commission" means the Homer Advisory Planning Commission.

"Pollution, nonpoint source" means pollution from any source other than from any discernible, confined, and discrete conveyances and shall include, but not be limited to, parking lots, roof tops and include substances such as pathogens, petrochemicals, sediments, debris, toxic contaminants, or nutrients.

"Pollution, point source" means pollution from any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.

"Pollutant" in reference to waters means any substance that causes contamination or other alteration of the physical, chemical, or biological properties of waters including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into the waters that will or is likely to create a nuisance or render such waters harmful. These substances include, but are not limited to any dredge, spoil, solid waste, incinerator residue, oil, grease, garbage, sewage, sludge, medical waste, chemical waste, biological materials, heat, petrochemical, and sediment.

"Principal use." See use, principal.

"Project" means an existing or proposed development.

"Public spaces" means space containing amenities for public use or enjoyment, for example, benches, bike racks, water features, public art, and kiosks that enhance the community.

"Public utility facility or structure," for the purpose of requiring a conditional use permit, means (i) any facility or structure owned and operated by a public or private utility, or (ii) a telecommunications tower or antenna, but it excludes water distribution mains, pressure stations and hydrants, sewage collection lines, manholes and lift stations, underground and overhead electrical, cable and telephone lines and poles, street lights and small wind energy systems.

"Ravine" means a long, deep hollow in the earth's surface with walls that have a height of at least 15 feet and an average slope of not less than 500% (five feet difference in elevation per one foot of horizontal distance).

"Recharge volume" or "Rev" means that portion of the water quality volume used to maintain groundwater recharge rates at development sites.

"Recreational facility, indoor" means a building used for indoor sports, recreation, physical activities or games such as bowling alleys, racquetball courts, skating rinks, and other physical recreation activities.

"Recreational facility, outdoor" means a lot used for outdoor sports activities or games such as skating rinks, batting cages, sports fields, golf courses, miniature golf, driving ranges, equestrian arenas, open air performing arts centers and similar activities. It does not include sport fishing in the waters of any watercourse, water body, or

Kachemak Bay.

"Recreational vehicle" is a vehicular unit, other than a manufactured home, that is designed and manufactured as temporary lodging for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, and fifth-wheel trailer.

"Recreational vehicle park" means a parcel of land that has been planned and improved for use by two or more recreational vehicles for transient occupancy.

"Religious, cultural and fraternal assembly" means a use or building owned or maintained by an organized religious organization or nonprofit entity for assemblies for social, cultural, civic, or philanthropic purposes, or where persons regularly assemble for worship.

"Residential districts" or "residential zoning districts" means the rural residential, urban residential, and residential office zoning districts.

"Reservoir" means a pond, lake, or basin, either natural or artificial, for the storage, regulation, and control of water.

"Retention structure" means a permanent structure that provides for the storage of water runoff.

"Right-of-way" means the entire width of property dedicated for a public street or private easement providing ingress and egress from property abutting thereon.

"Road." See street.

"Roadside stand" means a temporary structure on land adjacent to a street, usually for the attraction of motorists for profit-making purposes. Common roadside stands sell local food, produce, firewood, handcrafted items or imported goods.

"Rooming house" means a dwelling containing not more than five guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. A rooming house shall not accommodate in excess of 15 guests. A rooming house shall also include any structures associated with the dwelling, such as guest cabins, provided that a conditional use permit was obtained for any associated structures, if a permit is required in order to have more than one building containing a permitted principal use on the lot. "Rooming house" does not include bed and breakfast.

"School" means an institution or place for instruction or education, including all structures and land necessary to the accomplishment of educational purposes.

"School, commercial" means a school for the teaching of clerical, managerial, administrative, service or artistic skills. This applies to schools operated privately for profit that do not offer a complete educational curriculum, e.g., beauty school, modeling school and secretarial school. Commercial school does not include trade, skilled or industrial school.

"School, private" means a school that provides a complete educational curriculum and is owned and operated by private educational, religious, charitable, or other institution. It may provide elementary, secondary or post-secondary levels of education.

"School, public" means a school owned and operated or chartered by the Kenai Peninsula Borough or the state or University of Alaska for the purpose of public education.

"School, trade, skilled or industrial" means a school for the teaching of industrial, construction, technical and skilled trades skills, including schools operated by or for labor unions. Examples include welding, carpentry, electrician, and similar training schools.

"Sediment" means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

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"Senior housing" attached or detached independent living developments, including retirement communities, age-restricted housing and active adult communities.

"Service station." See auto fueling station and auto repair.

"Setback" means the required minimum distance between the lot line and a building, measured according to HCC Chapter 21.05. The setback area establishes a required yard in which structures are prohibited or limited as provided in the zoning code.

"Sewer, community" means that portion of a non-public sewerage serving

- a. one or more multi-family dwellings;
- b. a mobile home park, a trailer park, or a recreational vehicle park;
- c. two or more:
 - i. single-family homes or duplexes;
 - ii commercial establishments;
 - iii industrial establishments; or
 - iv institutions; or
- d. any combination of two or more of the structures listed in (c) (i-iv) of this paragraph.

"Sewer, public" means a sewer system operated for the benefit of the public by the City of Homer or a public utility under a certificate of convenience and necessity issued by the Regulatory Commission of Alaska or by its predecessor or successor agency.

"Shelter for the homeless" means a building used primarily to provide on-site meals, shelter and secondary personal services such as showers and haircuts to the homeless and the needy on a non-permanent basis for no or nominal compensation.

"Sign." See HCC § 21.60.040.

"Site" means any lot, tract, or parcel of land, or a portion thereof, or any combination thereof that are in one ownership or are contiguous and in diverse ownership, where development exists or will be created as one unit, subdivision, or project.

"Site plan" means a plan, to scale, showing the proposed use and development of a site. The plan generally includes lot lines, streets, points of vehicular access to the site, building sites, reserved open space, existing buildings, major landscape features (both natural and man-made), and the locations of utility lines. Additional information may be required on a site plan by applicable provisions of the zoning code.

"Slash pile" means a row or pile of woody debris from timber harvesting, land clearing, or similar activity.

"Slope" means with respect to two points on the surface of the ground, the ratio, expressed as a percentage, of the difference between their elevations divided by the horizontal distance between them. Slope is measured as provided in HCC 21.05.040.

"Small Wind Energy System" means a wind energy system having a rated capacity of less than 25 kilowatts and a total height less than 170 feet, whose primary function is to provide electric power for onsite consumption.

"Stabilization" means the prevention of soil movement by any of various vegetative or structural means.

"Stable, private" means an accessory building in which one or more horses are kept for private use and enjoyment and not for boarding, hire or sale; or in which not more than one horse is kept for boarding, hire or sale.

"Stable, public" means a building in which two or more horses are kept for boarding, hire or sale.

"State highway" means a street designated by the State as a part of the State highway system.

"Steep slope" means an elevation change in topography of at least 15 feet, with an average slope of not less than 45% (one foot difference in elevation per 2.22 feet of horizontal distance). A steep slope can occur naturally or can

be created by excavation into or filling over natural ground.

“Stormwater management” means:

- a. For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man made changes to the land; and
- b. For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

“Stormwater management, off-site” means the design and construction of a facility necessary to control stormwater from more than one development.

“Stormwater management, on-site” means the design and construction of systems necessary to control stormwater within an immediate development site.

“Stormwater management plan” or “SWP” means a set of drawings or other documents prepared according to the requirements of this title and submitted by a person as a prerequisite to obtaining a stormwater management approval. A SWP will contain all of the information and specifications pertaining to stormwater management.

“Stormwater runoff” means flow on the surface of the ground, resulting from precipitation or snow melt.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top most story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade for more than 50% of the total perimeter or is more than 12 feet above grade at any point, such basement or cellar shall be considered a story.

“Story, half” means a story under a gable, hip, gambrel or mansard roof, the wall plates of which on at least two of its opposite exterior walls are not more than two feet above the floor of such story.

“Stream” means any body of flowing water, including a river, creek, tributary, or other watercourse.

“Stream banks” are defined by the steep or sloping ground that borders a stream and confines the water in the natural channel when the water level, or flow is normal.

“Stream, intermittent” means a stream that does not flow continuously but stops or dries up from time to time.

“Stream, perennial” means a stream that flows continuously throughout the year, in contrast to an intermittent stream.

“Street” means a public thoroughfare including a public street, road or highway of any description that affords a principal means of access to abutting property. Street does not include alley or driveway.

“Street line” means the line of demarcation between a street right-of-way and the abutting lot(s).

“Stripping” means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing and storage or removal of topsoil.

“Structural alteration” means any change of the supporting members of a building or structure such as bearing walls, columns, beams or girders.

“Structure” means anything constructed or erected that requires location on the ground or that is attached to something having location on the ground.

“Studio” means a room, rooms or building where an artist or photographer does work, a place where dancing lessons, music lessons, or similar artistic lessons are given, or where radio or television programs are produced or where recordings are made.

“Taxi” means any motor vehicle, permitted and licensed by the City, having a manufactured-rated seating capacity of nine passengers or less engaged in the carrying of persons in exchange for receiving fares, not operated over a

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fixed route, and subject to calls from a central location or otherwise operated for hire to perform public transportation.

"Taxi operation" means a taxi business operated from a fixed location, but not limited in its operation to any particular route, which may include a dispatch office and vehicle fleet parking.

"Timber growing, harvesting and forest crops" means the growing, harvesting, or both, for commercial purposes, of (i) trees including, without limitation, live trees, Christmas trees and tree products in the form of logs, chunks, bark chips or similar items; or (ii) minor forest crops such as cones, ferns, greenery, berries and moss.

"Total suspended solids" means the sum of the organic and inorganic particles (e.g., sediment) suspended in and carried by a fluid (e.g., water).

"Townhouse" means a building on its own separate lot containing one dwelling unit that occupies space from the ground to the roof and is attached to one or more other townhouse dwelling units by at least one common wall.

"Trip" in reference to traffic means a single one way motor vehicle movement either to or from a subject property or study area.

"Turbidity" means an expression of the optical property that causes light to be scattered and absorbed rather than transmitted in straight lines through a water sample; turbidity in water is caused by the presence of suspended matter such as clay, silt, finely divided organic and inorganic matter, plankton, and other microscopic organisms.

"Use" means the purpose for which land or a structure is occupied, arranged, designed or intended, or for which either land or a structure is or may be occupied or maintained.

"Use, principal" means the use of a lot or structure that is of chief importance or function on the lot.

"Variance" means any deviation from the requirements of the zoning code authorized by the Planning Commission pursuant to HCC Chapter 21.72.

"Vehicle fleet" means a group of vehicles operated under unified control.

"Vehicle maintenance." See auto repair.

"Vehicle repair." See auto repair.

"Visibility or vision clearance" means the assurance of adequate and safe vision clearance particularly for vehicle operators and pedestrians; a specified area of clearance at corners of intersections where no plantings, walls, structures or temporary or permanent obstructions exceeding a specified height above the curb level are allowed.

"Watercourse" means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.

"Water-dependent" means a use or activity that can be carried out only on, in or adjacent to water areas because the use requires access to the water body.

"Water quality volume" or "WQv" means the volume needed to capture and treat 90 percent of the average annual runoff volume at a development site.

"Water-related" means a use or activity that is not directly dependent upon access to a water body, but which provides goods and services that are directly associated with water-dependent uses or activities.

"Watershed" means any area of land that water flows or drains under or across ground on its way to a lake, pond, river, stream, or wetland. A watershed can be delineated on a topographical map by connecting the high points of the contour lines surrounding any water body.

"Wetland" means an area of land that is inundated or saturated by surface or ground water at a frequency and

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duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Wholesale." See business, wholesale.

"Wind Energy System" means a wind turbine and its supporting wind energy system tower.

"Wind Energy System Tower" means a fixed vertical structure that supports a wind turbine, including a monopole or lattice tower, plus its accompanying base plates, anchors, guy cables and hardware.

"Wind Turbine" means a bladed or other type of rotating mechanism that converts wind energy into electric energy.

"Yard" means a required open, unoccupied space on a lot. A yard is unobstructed by any structure or portion of a structure from thirty inches above the general ground level of the graded lot upward, except (a) fences, walls, posts, poles and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility, and (b) certain structures may be permitted in certain yards when authorized by code provisions applicable to a particular zoning district.

"Yard, front" means a yard extending across the full width of a lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

"Yard, rear" means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto.

"Yard, side" means a yard between a main building and the side lot line extending from the front yard to the rear yard.

"Zoning code" means Title 21 of the Homer City Code.

"Zoning districts" means those districts established and described in Article 2 (Chapters 2.10 through 2.32) of the zoning code. (Ord. 10-56 §1 (part), 2011; Ord. 09-44(S)§1 (part), 2009; Ord. 09-34(A) §1 & §2 (part), 2009; Ord. 09-12(A)§1, §2, 2009; Ord. 08-29, 2008).

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