

10-2-2: DEFINITIONS ENUMERATED:

For the purposes of this Development Code, certain words and terms are defined as hereinafter set forth:

ADA: Any term, condition or improvement required to be included or constructed within a project pursuant to the provisions of the Americans With Disabilities Act.

ACCESSORY APARTMENTS: A portion of a single-family dwelling (primary dwelling unit), containing separate cooking, sleeping and sanitary facilities, and occupied or intended for occupancy as a separate but subordinate dwelling unit.

ACCESSORY BUILDING: A building located on a lot or parcel of land, the use of which is appropriate, subordinate and customarily incidental to that of the main building. ~~and/or principal use of the land.~~

ADULT DAYCARE FACILITY: Any building or structure furnishing care, supervision, and guidance for three (3) or more adults unaccompanied by guardians for periods of less than twenty four (24) hours per day.

ASSISTED LIVING FACILITY: A residential facility, licensed by the State of Utah, with a homelike setting that provides an array of coordinated support personnel and healthcare services, available twenty four (24) hours per day, to residents who have been assessed under the Utah Department of Health or the Utah Department of Human Services rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

- A. Specified services of intermediate nursing care;
- B. Administration of medication;
- C. Support services promoting resident's independence and self-sufficiency. Such a facility does not include adult daycare provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

BOARDER: A person living in a rented room in a boarding house. The boarding house operator or member of his or her immediate family, who resides on the premises with the operator, shall not be considered to be a boarder.

BOARDING HOUSE: A building or a portion thereof operated by a person residing on the premises where, for compensation, rooms are rented together with meals for not more than fifteen (15) boarders who generally do not directly utilize kitchen facilities. The work shall include compensation in money, services, or other things of value. A boarding house does not include:

- A. A residential facility for the elderly or persons with a disability; or
- B. Any nonresidential facility, such as a rehabilitation/treatment facility, where the primary purpose of the facility is to deliver rehabilitation, treatment, counseling, medical, protective or other similar services to the occupants thereof.

BUILDABLE AREA: A lot or portion thereof possessing all of the following physical characteristics:

- A. The area contains no territory having a natural slope of thirty percent (30%) or greater and meets all conditions as provided in section [10-12-34](#) of this title.
- B. The area contains no territory which is located in any identified floodplain or within any recognized inundation zone, mudflow zone or zone of deformation, or lands subject to earth slippage, landslide or rockfall.
- C. The engineering properties of the soil provide adequate structural support for the intended use.
- D. The area does not possess any other recognized natural condition which renders it unsafe for building purposes.
- E. The area is within the building setback envelope as determined in accordance with the setback provisions of the zone.
- F. The area is readily capable of vehicular access from the adjacent public street over a driveway having a slope of not more than twelve percent (12%).

BUILDING: A permanently located structure, including, but not limited to, dwelling units, designed, intended or used for occupancy by any person or for storage of property of any kind.

BUILDING FOOTPRINT: The area circumscribed within the outside perimeter of a proposed building, as determined along the outside edge of the foundation wall.

CHILDCARE CENTER: A dwelling unit wherein ordinary care and supervision are provided during customary daytime periods by the resident family to nonrelated persons.

COMMON AREA: An area designated to serve two (2) or more dwelling units in separate ownership with convenient access to the area.

COMMUNITY CORRECTIONAL FACILITY: A facility licensed by or contracted by the State of Utah to provide temporary occupancy for previously incarcerated persons which assists such persons in making a transition from a correctional institution environment to independent living. Such facility may also provide ancillary, temporary occupancy for individuals placed as part of, or in lieu of confinement rehabilitation, or treatment in a correctional institution.

CONDOMINIUM: The ownership of a single unit in a multi-unit project, together with an undivided interest in common in the common areas and facilities of the property.

CONDOMINIUM PROJECT: A development project whereby two (2) or more units, together with an undivided interest in the common area or facility, are separately offered or proposed to be offered for sale. This definition shall apply to existing or proposed apartments, commercial or industrial buildings or structures. Condominium project shall also mean the property when the context so requires.

CORRAL: A fence or other barrier used for the confinement of livestock for which the primary source of food is provided from other than grazing of grass or herbage growing on the site.

CORRECTIONAL FACILITY: A prison, jail, juvenile detention facility or juvenile security facility.

CUSTOMARY RESIDENTIAL ACCESSORY STRUCTURE: A structure constructed on the same zoning lot as a dwelling and which is intended for the incidental and exclusive use of the residents of said dwelling, including, but not limited to, detached garages, carports, swimming pools, tennis courts, greenhouses, storage buildings and satellite dishes.

DENSITY: The number of dwelling units per acre of land.

DERELICT PARCEL: A residual parcel of land created or proposed to be created as part of a proposed subdivision design of a larger tract having insufficient area or dimension or possessing other conditions which prohibit its qualification as a zoning lot within the zone.

DESIGNATED CITY STREET: A Federal or State highway or street within the City owned by the City and intended for automobile travel by the public.

DISABILITY: A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment, or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any Federally controlled substance, as defined in section 102 of the Controlled Substances Act, 21 USC 802, or as defined under title 58, chapter 37, Utah Code Annotated, 1953, as amended. As used in this definition:

A. "Physical or mental impairment" includes:

1. Any psychological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or
3. Such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus (HIV), mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of controlled substances) and alcoholism.

B. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

C. "Having a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

D. "Regarded as having such an impairment" means:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities but is treated by another person as having such a limitation; or

2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
3. Has none of the impairments defined in subsection A of this definition but is treated by another person as having such an impairment.

DOCUMENTATION-DECLARATION: The legal instruments required under the provisions of this Development Code and applicable State law for approval of a planned development or subdivision.

DOMESTIC STAFF: Persons employed or residing on the premises of a dwelling or other residential facility to perform domestic services or to assist residents in performing major life activities.

DWELLING: Any building or portion thereof containing one or more dwelling units occupied as, or designed or intended for occupancy as, a residence by one or more families.

DWELLING, CARETAKER'S: A dwelling which is occupied by an individual or family whose livelihood is derived primarily from watching or taking care of a farm, industry or other use which is located on the same premises as the dwelling.

DWELLING, CONVENTIONAL CONSTRUCTION: A dwelling which is constructed in compliance with the provisions of the Building Code, Mechanical Code, Electrical Code and Plumbing Code, as adopted by the State or City.

DWELLING, FACTORY BUILT: A dwelling that is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For purposes of this Development Code, the term factory built dwelling consists of three (3) types: modular housing, manufactured housing and mobile homes.

DWELLING, MULTIPLE-FAMILY: A building arranged or designed to include three (3) or more dwelling units, each to be occupied by one family.

DWELLING, SINGLE-FAMILY: A detached building arranged or designed to include only one dwelling unit occupied by one family.

DWELLING, TWO-FAMILY/DUPLEX: A building arranged or designed to include two (2) dwelling units, each to be occupied by one family.

DWELLING UNIT: One or more rooms in a building or portion thereof designed, occupied or intended as a residence for a family with complete and independent facilities for living, sleeping, eating, cooking and sanitation, provided within the dwelling unit.

EDUCATIONAL INSTITUTION: A public elementary or secondary school, charter school, seminary, parochial school or private education institution having a curriculum similar to that ordinarily provided in grades 1 through 12 in a public school system. The term educational institution for the purpose of this title does not include post-high school educational facilities or educational facilities which include residential facilities for its students.

EDUCATIONAL INSTITUTION WITH HOUSING: A public or private educational institution with on site residential facilities for its students and/or staff.

ELDERLY PERSON: A person who is sixty (60) years or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

FAMILY: An individual or two (2) or more persons related by blood, marriage or adoption, living together in a single dwelling unit and maintaining a common household. A family may include four (4), but not more than four (4), nonrelated persons living with the residing family. The term "family" shall not be construed to mean a group of nonrelated individuals, a fraternity, club or institutional group. "Family" does not exclude the care of foster children.

FENCE, SIGHT OBSCURING: A fence which permits vision through less than twenty percent (20%) of any square foot area.

FINAL PLAT; RECORD OF SURVEY MAP: A plat of survey of land within a subdivision or large scale development, which has been prepared in accordance with applicable City standards and/or State Statutes for the purposes of recording in the Office of the County Recorder.

GARAGE: A structure situated on a residential lot, either attached to a dwelling or freestanding, enclosed on all sides by walls or doors, which is designed and intended for the shelter of automobiles.

GENERAL PLAN (MASTER PLAN): A coordinated plan which has been prepared and adopted for the purpose of guiding development, including, but not limited to, a plan or plans of land use, resources, circulation, housing, and public facilities and grounds.

GRADE OF STREETS AND DRIVEWAYS: The ratio of vertical distance along such a street or driveway expressed in either percentage or degree.

HOME OCCUPATION: Any occupation conducted within a dwelling and carried on by persons residing in the dwelling.

HOMELESS SHELTER: Charitable lodging or sleeping rooms provided on a daily or other temporary basis to persons lacking other safe, sanitary or affordable shelter. May also include a kitchen and cafeteria.

HOSPITAL: An institution licensed by the State of Utah which provides diagnostic, therapeutic, and rehabilitative services to individuals on both an inpatient and outpatient basis by or under the supervision of one or more physicians. A medical clinic or professional office which offers any inpatient or overnight care, or operates on a twenty four (24) hour basis shall be considered to be a hospital. A hospital may include necessary support service facilities such as laboratories, outpatient units and training and central services, together with staff offices necessary to operate the hospital.

HOTEL: A facility offering transient lodging accommodations to the general public and which may provide additional services such as restaurants, meeting rooms, entertainment and recreational facilities.

KENNEL: Where permitted by the City zoning ordinance, kennels must be approved by the Planning Commission and can be used for any purpose, including boarding, breeding, buying, grooming, letting for hire, training for fee, or selling.

LANDSCAPING: The use and integration of a combination of planted trees, shrubs, vines, ground covers, lawns, rocks, foundations, pools, artwork, screens, walls, fences, benches or

surfaced walkways set into an aesthetically pleasing arrangement as determined by the Planning Commission or their authorized representatives. However, the use of structures or surfaced walkways alone, in the absence of planted trees, lawns, etc., shall not meet the requirements of this Development Code.

LIVESTOCK ANIMALS: Where permitted by the City zoning ordinance, livestock animals are allowed based on the land area of the lot and land provided for the livestock management area. The number of animals allowed on a parcel by type of animal is detailed in section [10-18-5](#) of this title.

LIVESTOCK MANAGEMENT AREA: All portions of a lot devoted exclusively to the care and keeping of livestock, including, but not limited to, barns, sheds, pens, coops, corrals and pastures, but not including any portion of a parcel devoted to a dwelling, yard, garden, parking area or unutilized open area.

LIVING AREA: Those portions of dwellings having a headroom height of not less than seven feet (7') and used for customary living activities. For purposes of this Development Code, the term "living area" shall not include those portions of a dwelling intended for parking of vehicles, unenclosed porches, storage rooms having only outside access and similar areas.

LOT: A. An independently described parcel of land as shown on the records of the County Recorder; or

- B. Two (2) or more contiguous parcels each of which qualify under subsection A of this definition and for which a declaration of zoning lot has been approved and filed in the Office of the County Recorder.

LOT, CORNER: A lot abutting on two (2) intersecting or intercepting streets where the interior angle of intersection or interception does not exceed one hundred thirty five degrees (135°).

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE: A. Front:

1. The front boundary line of a lot bordering on the street or in the case of a flag lot, the boundary line located closest to and approximately parallel to the street upon which the driveway portion abuts.
 2. In the instance of a corner lot, the front lot line shall be the lot line adjacent to the street having the lowest level of service or determined to have the least amount of potential traffic and subject to section [10-15C-4](#) of this title.
- B. Rear: A lot line which is opposite and most distance from the front lot line. In the case of an irregular, triangular or gore shaped lot, the rear lot line shall be a line within the lot parallel to and at the maximum distance from the front lot line, having a length of at least ten feet (10').
- C. Side: Any lot boundary line not a front lot line or a rear lot line.

LOT, UNIMPROVED RESIDUAL: See section [10-15F-10](#) of this title.

MAIN BUILDING: One or more of the principal buildings upon a lot. Garages, carports and other buildings which are attached to a dwelling or other main building or which are situated

closer to the main building than the minimum distance specified in the zone requirements shall be considered as a part of the main building.

MAIN FLOOR LIVING AREA: The area of a dwelling, measured from the outside wall line on a horizontal plane, which when viewed from above, contains living area on one or more floors or levels, which floors or levels are located entirely above the finished ground level surrounding the dwelling.

MANUFACTURED HOME: A transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or when erected on site, is four hundred (400) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. All manufactured homes constructed on or after June 15, 1976, shall be identifiable by the manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards.

MINOR UTILITY TRANSMISSION PROJECT: The construction of transmission and distribution facilities for electric power, telephone, gas and oil, water, cable TV, microwave and similar commodities for the purpose of supplying such services or commodities primarily to structures in the immediate vicinity.

MIXED USE DEVELOPMENT: Developments which combine a combination of development types within a single development project or phase. Such combinations are typically of one or more of the following characteristics:

- A. **Residential Only Mixtures:** A mixture of residential uses within a single project or phase, such as single-family detached dwelling units combined with single-family attached and/or multiple-family dwelling units.
- B. **Residential And Commercial Mixtures:** A mixture of any residential use and commercial uses within a single development project or phase.

MOBILE HOME: A transportable factory built housing unit built prior to June 15, 1976, in accordance with a State Mobile Home Code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

MOBILE HOME PARK: An area or tract of land used to accommodate two (2) or more mobile homes.

MODULAR HOUSING: A factory built dwelling constructed in accordance with the provisions of the Building Code.

NONCONFORMING LOT OF RECORD: A parcel of land which does not conform to the minimum area and/or width requirements for the zone in which it is located, but which was legally created and was shown on the records of the County Recorder as a conforming lot of record prior to the effective date of the applicable controlling provisions. Substandard lots in illegal subdivisions shall not be considered as nonconforming lots of record.

NONCONFORMING USE OR BUILDING: A building or structure, or portion thereof, or use of a building or land existing at the time of the passage hereof, which does not conform to the zoning regulations as set forth herein but which legally existed prior to the effective date of the now controlling provision.

NONRESIDENTIAL TREATMENT FACILITY: A facility wherein no persons will be housed on an overnight basis, and provides services including rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse, or mental health. Associated educational services may also be provided to juvenile occupants.

NURSING HOME, CONVALESCENT HOME, AND REST HOME: An intermediate care/nursing facility or a skilled nursing facility licensed by the State of Utah, for the care of individuals who, due to illness, advanced age, disability, or impairment require assistance and/or supervision on a twenty four (24) hour per day basis. Such a facility does not include an adult daycare facility or adult daycare provided in conjunction with residential facilities for elderly persons or a residential facility for persons with a disability.

OFF SITE: Of or pertaining to land, area or facilities not located within the boundaries of a final plat of a planned development or subdivision.

OFF STREET PARKING: An area adjoining a building providing for the parking of automobiles which does not include a public street, but has convenient access to it.

PASTURE: An area confined by wire, wood or other fence structure used for the confinement of livestock for which the primary source of food is obtained from the grazing of grass or herbage growing on the site.

PENINSULA: An area of land as defined by property lines which contains an irregular extension and where said extension has an opening width, as determined to be the distance measured across the opening of the extension in as close to a perpendicular manner as possible, which is less than twenty percent (20%) of the total distance of circumference as measured along the property boundaries excluding the opening width.

PROTECTIVE HOUSING FACILITY: A facility operated, licensed, or contracted by a governmental entity, or operated by a charitable, nonprofit organization, where for no compensation, temporary, protective housing is provided to:

- A. Abused or neglected children awaiting placement of foster care; or
- B. Pregnant or parenting teens; or
- C. Victims of sexual abuse; or
- D. Victims of domestic abuse.

PUBLIC BUILDING: For purposes of this title only, a public building is a building owned and operated, or owned and intended to be operated by the City, a public agency of the United States of America, the State of Utah, or any of its political subdivisions. The use of a public building, with immunity, is nontransferable and terminates if the structure is devoted to a use other than as a public building with immunity. A public building referred to as with immunity under the provisions of this title includes:

- A. Properties owned by the State of Utah or the United States government which are outside of the jurisdiction of the City zoning authority as provided under title 10, chapter 9a, section 304, Utah Code Annotated, 1953, as amended; and
- B. The ownership or use of a building which is immune from the City zoning authority under the supremacy clause of the United States Constitution.

PUBLIC SCHOOL: One or more buildings, together with the appurtenant yards, incidental structures, parking areas, etc., operated by the school district or other public agency for educational purposes.

REASONABLE ACCOMMODATION: A change in any rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. As used in this definition:

- A. "Reasonable" means a requested accommodation that will not undermine the legitimate purpose of existing zoning regulations, notwithstanding the benefit that the accommodation would provide to a person with a disability.
- B. "Necessary" means the applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy the housing of their choice.
- C. "Equal opportunity" means achieving equal results as between a person with a disability and a nondisabled person.

RECREATION VEHICLE: A vehicle used, designed or maintained primarily as a temporary dwelling for travel, vacation or recreation purposes, having a width of not more than eight feet (8') and length of not more than forty feet (40'), and which can be driven or pulled upon the highways without a special permit.

RECREATION VEHICLE COURT: An area or tract of land used to accommodate two (2) or more recreation vehicles or camper units for a short period of time (less than 30 days).

REHABILITATION/TREATMENT FACILITY: A facility licensed or contracted by the State of Utah to provide temporary occupancy and supervision of individuals (adults and/or juveniles) in order to provide rehabilitation, treatment or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse, or mental health. Associated educational services may also be provided to juvenile occupants.

RELATED: Related by blood, marriage or adoption within the definition of "family" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild, to include the half as well as the whole blood.

RESIDENCE, RESIDENTIAL FACILITY: Any building or portion thereof where an individual is actually living at a given point and time and intends to remain, and not a place of temporary sojourn or transient visit.

RESIDENTIAL FACILITY FOR ELDERLY PERSONS: A dwelling unit that is occupied on a

twenty four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement. A residential facility for elderly persons shall not include any of the following:

- A. A facility which is operated as a business; provided that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of preparation and maintenance of the facility;
- B. A facility where persons being treated for alcoholism or drug abuse are placed; a facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution; or a facility which is a healthcare facility as defined by title 26, chapter 21, section 2, Utah Code Annotated, 1953, as amended; or
- C. A facility which is a residential facility for persons with a disability.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY: A dwelling unit or other place in which more than one person with a disability resides and, if required by State law, is licensed or certified by:

- A. The Utah Department of Human Services under title 62A, chapter 2, of the Utah Code Annotated, 1953, as amended, Licensure of Programs and Facilities; or
- B. The Department of Health under title 26, chapter 21, Utah Code Annotated, 1953, as amended, Health Care Facilities Licensing and Inspection Act.

RETAINER STRIP: A parcel of land less than the minimum depth required for a building lot bordering the boundary of a subdivision and a street within the subdivision for the purpose of controlling the access of the property owners abutting the subdivision to the street.

RETIREMENT HOME: A residential facility designated, occupied, and intended for residents fifty (50) years of age or older where common facilities for cooking and dining are available to all residents and independent facilities are provided for living, sleeping and sanitation.

SETBACK: The shortest distance between the property line and the building, or part thereof, as measured on a horizontal plane from the property line to the nearest point of the foundation.

SHELTERED WORKSHOP: An on site supervised educational or vocational training facility for persons with a disability and does not provide any residential facilities.

SIGN: Any device designed and intended to bring the subject thereof to the attention of the public; provided, however, that the following shall not be included in the application of regulations relating to signs:

- A. Flags or insignia of any government, except when displayed in connection with a commercial promotion.
- B. Legal notices and signs used for regulation, identification and informational purposes erected by a governmental body.
- C. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

D. Political campaign signs.

SIGN, ACCESSORY: A sign which directs attention to a business or profession conducted on the premises.

SIGN, NONACCESSORY BILLBOARD: A sign which directs attention to a business, commodity, service or entertainment which is conducted, sold or offered at a location other than the premises.

STRUCTURE: Anything constructed or erected which requires location on the ground, but not including a tent or vehicle.

SUBDIVISION: A. Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions.

B. "Subdivision" includes:

1. The division or development of land, whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and
2. Except as provided in subsection C of this definition, divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

C. "Subdivision" does not include:

1. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance;
 2. A recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
 - a. No new lot is created; and
 - b. The adjustment does not result in a violation of applicable zoning ordinances; or
 3. A recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.
- D. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this definition as to the unsubdivided parcel of property or subject the unsubdivided parcel to the Municipality's subdivision ordinance.

TRADE OR VOCATIONAL SCHOOL: A post-high school educational or vocational training facility.

TRANSITIONAL HOUSING FACILITY: A facility owned, operated or contracted by a

governmental entity or a charitable, not for profit organization, where, for no compensation, temporary housing (usually 3 to 24 months, but in no event less than 30 days) is provided to homeless persons, while they obtain work, job skills, or otherwise take steps to stabilize their circumstances. A transitional housing facility shall not include:

- A. A shelter for the homeless; or
- B. A dwelling unit provided to a family for the exclusive use as part of a transitional housing program, for more than thirty (30) days; or
- C. A residential facility for persons with a disability.

USE, LAND: Any purpose for which a lot, building or other structure or a tract of land may be designated, arranged, intended, maintained or occupied; or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

- A. Permitted: A use of land that is expressly permitted within a specific zone by the Development Code, without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this title.
- B. Conditional: A land use that, because of its unique characteristics or potential impacts on the Municipality, surrounding neighbors or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts within a specific zone by the Development Code.
- C. Not Permitted: A land use that is either listed as a nonpermitted use or is not listed as a permitted use within a specific zone by the Development Code. The use does not enjoy a legal conforming or legal nonconforming status, as defined in this title.

YARD: Any space on a lot other than a court, which is open and unobstructed from the ground to the sky.

YARD, FRONT: A yard extending across the full width of the lot, between the front lot line and the closest part of the main building.

YARD, REAR: A yard extending across the full width of the lot, between the rear lot line and the closest part of the main building.

YARD, REQUIRED: The minimum yard area located around buildings as established by the applicable setback requirements of this Development Code.

YARD, SIDE: A yard extending from the front lot line to the rear lot line, between the side lot line and the closest part of the main building.

ZONING LOT: A lot or parcel of land which:

- A. Meets all area (lot size), frontage (width), setback (yard), and other zoning requirements applicable within the zone in which it is located;
- B. Abuts upon and has direct access to a designated City street which street has been: 1) dedicated to the City; or 2) accepted by the City Council as an approved City street; and 3)

has an established right-of-way width not less than required for the class of street, as shown on the major street plan;

- C. Is served by the minimum level of improvements required for issuance of a building permit or for which the construction of the minimum level of improvements is secured through the posting of a performance guarantee; and
- D. Is shown as a separate lot on the final plat of subdivision or similar development which has been approved in accordance with the applicable ordinance, or is legally exempted from compliance with said ordinance. A parcel which is part of an unapproved or illegal subdivision shall not qualify as a zoning lot. (Ord. 17-9, 9-26-2017)

10-12-5: ACCESSORY BUILDING REGULATIONS:

A. Definitions: For the purpose of this section, the following shall be used as definitions:

ACCESSORY BUILDING: An **accessory building** for both residential and nonresidential development is defined as a building that:

1. Is detached from the principal building and is more than six feet (6') away from the principal building.
2. Is clearly a supplementary use to the principal building.
3. Is not used as a dwelling or place of residence.

ACCESSORY STRUCTURE: A structure that does not provide shelter from elements. Examples may include swimming pools, pool screening and decking, waterfalls, fountains and barbecue pits with concrete foundations, decorative ponds, or decks. Not included in this section are driveways, fences, walls, curbing, portable fountains, birdbaths, benches, or mobile barbecue pits.

BUILDING: A permanent or semipermanent structure with a roof and walls usually used as a place for people to live, work, play, do activities, or store things.

GARAGE, DETACHED: A permanent building with footings that is enclosed on all sides by walls and/or doors and designed primarily for the shelter of motor vehicles. A detached garage is an **accessory building**.

PORTABLE ACCESSORY BUILDING: 1. A building that is two hundred (200) square feet or less.

2. A semipermanent structure with no concrete footings or concrete floor and is on skids or some type of device that will allow for easy relocation.
3. Does not exceed twelve feet (12') in height from the lowest part of the structure to the top.

PRINCIPAL BUILDING: Also known as the main building on a lot where most of the activity on that lot is performed. Garages, carports or other buildings attached to the principal building or that are within six feet (6') of the principal building shall be considered as part of that principal building.

ROOF ONLY BUILDING: Consists of a roof and roof support structure. Up to three (3) sides may be covered but the sides must not be part of the support structures for the roof. A roof only building is an **accessory building**. A conditional use permit is required if a roof only building is larger than seven hundred (700) square feet.

SIDE YARD FOR DETERMINING ANY **ACCESSORY BUILDING** COVERED AREA: The area between the front wall plane of the principal building and the rear wall plane of the principal building and the area between the side wall plane of the principal building and the side yard property line.

B. Prohibited **Accessory Building** Uses:

1. A dwelling or place of residence.
2. Use as sleeping quarters.
3. Hazardous chemical storage unless specifically permitted by the city.

C. Prohibited **Accessory Buildings** And Structures: The following are prohibited:

1. Tents (when used more than 2 weeks in a 2 month period).
2. Trailers and mobile homes (when used as an **accessory building**).
3. Cargo containers, reefer containers, semitrailers of any type.
4. Any other object or enclosed space which its intended primary function as constructed or manufactured differs from its proposed purpose as an **accessory building**.
5. A prohibited item may be approved for use as an **accessory building** by the planning commission if the item is modified in such a way that the planning commission determines that the item is aesthetically consistent with the principal building and surroundings and will continue to maintained as such.

6. Where no principal building exists on a lot, an **accessory building** or roof only building is prohibited

- D. **Accessory Building** Coverage Area: **Accessory buildings** may not cover more than fifteen percent (15%) of the combined total area of the rear and side yards nor more than eight percent (8%) of the total area, whichever is less.

E. **Accessory Building** Or Structure Setbacks: All **accessory buildings** or structures shall be located in accordance with the following:

1. Front Setback:

- a. Any **accessory building** portable or otherwise shall be placed behind the front wall plane of the principal building; the "front wall plane" being defined as the wall plane facing the abutting street.
- b. Any accessory structure except for waterfalls, fountains, or decorative ponds shall be placed behind the front wall plane of the principal building; the "front wall plane" being defined as the wall plane facing the abutting street.

2. Side Setback; Corner Lot, Side Abutting Street:

- a. Any **accessory building** portable or otherwise shall be placed behind the side wall plane of the principal building that is abutting the side street. Line of sight shall be maintained at all intersections in accordance with section 10-12-9 of this chapter.
- b. Any accessory structure except for waterfalls, fountains, or decorative ponds shall be placed behind the side wall plane of the principal building that is abutting the side street.

3. Side And Rear Setback; Interior Lot Line:

- a. Any **accessory building** or an accessory structure shall be located a minimum of eight feet (8') from the property line and not located on a public utility easement.
- b. Portable **accessory buildings** may be placed on a public utility easement; but the owner or successor in interest shall be responsible for moving and for any associated costs for moving the building in the event public utilities need to do work within the public utility easement.

4. Setback From Principal Building: **Accessory buildings** which are located six feet (6') or less from the principal building shall be considered part of the main building. Setbacks shall be the same as those for the principal building, and all current building codes shall apply.

F. **Accessory Building** Maximum Height: An **accessory building** is not to exceed thirty feet (30') in height from the lowest part of the structure, which is the bottom of the lowest sill plate or top of main floor (nearest ground level), whichever is lower, to the highest point on the roof. In addition, the **accessory building** maximum height shall not exceed the maximum height of the principal building. Maximum portable **accessory building** height is per subsection 3 of the definition of "portable **accessory building**" of this section.

G. Building Permit Required:

1. Any **accessory building** or accessory structure not meeting the definition of a "portable **accessory building**" as defined in this section shall have a building permit issued before work commences.

2. A portable **accessory building** shall require a permit and inspection if one or more of the following applies:
- a. Solar panels are permanently installed.
 - b. One hundred twenty (120) volt or greater electrical system is permanently installed.
 - c. Connected to any utility such as electric, natural gas, telephone, cable, city culinary water or sanitary sewer system. The addition of utilities may change the building status from portable **accessory building** to **accessory building** and will depend on the utilities connected. The determination of the building status will be made by Elk Ridge City staff.
- H. Conditional Use Permit Required: A roof only building exceeding seven hundred (700) square feet may be permitted following conditional use approval by the Planning Commission in accordance with section 10-12-33 of this chapter. (In no case, shall the roof only building area exceed the allowable areas in subsection D of this section.) The roof only building shall conform to the setbacks found in the applicable zone where it will be located.
- I. Drainage: No drainage from the roof of any **accessory building** or roof only building may be discharged onto an adjacent lot.

J. Vacant Lot: Where no principal building exists on a lot, an **accessory building** or roof only building may be permitted following conditional use approval by the Planning Commission in accordance with section 10-12-33 of this chapter. The **accessory building** or a roof only building shall conform to the setbacks found in the applicable zone where it will be located and to all other applicable requirements of this section.

J. K. Nonconforming Uses: All **accessory buildings** not in compliance at the time of adoption hereof are hereby grandfathered and are allowed to continue undisturbed. Any subsequent modification to an **accessory building** or to the use of that building shall require the prevailing code to be followed. (Ord. 16-5, 9-27-2016)