

## ARTICLE 2 DEFINITIONS OF TERMS

(rev. 11/05/2024 unless otherwise noted)

### 2.01 USAGE

### 2.02 WORDS AND TERMS DEFINED

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Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense and the future tense includes the present tense. The singular word "person" includes a firm, corporation, association, organization, trust, or partnership. The word "lot" includes "plot" or "parcel". The word "building" includes "structure". The word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged, or designed to be used or occupied". The words "zoning map" mean the Official Zoning District Map of the Municipality of Orange Beach, Alabama.

#### 2.02 WORDS AND TERMS DEFINED

As used in this Ordinance, the following words and terms shall have its meaning defined as follows.

**Abutting/Contiguous Property.** Any property that is immediately adjacent to, touching, or immediately across any road, public or private right-of-way from the property in question.

**Accessory Use.** The use of land, a detached structure or building, or portion thereof customarily incidental and subordinate to the principal use of the land, structure or building and located on the same lot with the principal use.

**Alcoholic Beverages.** Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors or mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine. (rev. 02/01/2011)

**Alley.** A public right-of-way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

**Alteration, Altered.** These terms shall include any changes in structural parts, stairways, type of construction, kind or class of occupancy, light or ventilation, means of ingress or egress, or other changes affecting or regulated by the Building Code or this Ordinance, including extension or expansion, except for minor changes or repairs not involving the aforesaid features.

**Apartment.** A room, or a group of rooms, among similar sets in one building, designed for use as a dwelling; a building, or group of buildings containing or made up of such rooms.

**Arterial Street.** A street designed or utilized primarily for high speed vehicular movements and heavy volumes of traffic; in Orange Beach, Alabama Highways 182 (Perdido Beach Boulevard), 180 (Canal Road), Foley Beach Expressway, and 161 (Orange Beach Boulevard).

**Astrologer, Palm Reader, Psychic Art & Science.** Any person who practices, teaches, or professes to practice the business of astrology or the psychic arts and sciences for a fee, gift, donation or other valuable consideration. Psychic arts and sciences may include augury, card or tea reading, cartomancy, clairaudience, clairvoyance, crystal gazing, divination, fortune telling, mediumship, necromancy, palmistry, phrenology, or prophecy. (rev. 02/01/2011)

**Atrium.** An open area within a building surrounded on all four sides by the building walls and open and unobstructed from the first floor level to the roof or sky except as otherwise provided in this Ordinance.

**Automobile Repair.** The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

**Automobile Wrecking.** The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantles, partially dismantled, obsolete or wrecked vehicles or their parts.

**Awning.** A detachable framework covered by cloth or other light materials supported from the walls of a building for protection from sun or weather.

**Basement.** A story all or partly underground but having at least one half of its height below the average level of the adjoining ground.

**Beach Shelter.** An accessory structure, temporary or permanent, consisting of one or more columns and a roof and not including walls or permanent facilities of any type.

**Bed and Breakfast.** A building or part thereof, other than a boarding house, hotel, motel or restaurant, under common or single ownership interest and single management, occupied by the owner, and is designed, used, or held out to the public to be a place where sleeping accommodations are supplied for pay to transient guests or tenants; the business which is duly licensed by the City, such building being without cooking facilities of any kind in the guestrooms, having one (1) County Health Department inspected dining room and kitchen facility where breakfast food and drink is served once daily and limited to the transient guests or tenants only; such establishment containing no more than ten (10) individual guestrooms, each with a minimum of one hundred (100) square feet of floor area (not including any bath facilities) and no more than four (4) occupants per guestroom, maintain an inner lobby, and furnish services such as room cleaning, linen supply, and furnishings. (rev. 04/09/2001)

**Bedroom, Sleeping Room.** For the purpose of this section, bedrooms or sleeping rooms are considered to be any habitable space within a dwelling unit capable of being used for sleeping purposes. This term shall include, but not be limited to, lofts, bunk rooms, home offices and areas designated as future use and shall not apply to areas with specific use designations including kitchen, living room, dining room, bathroom, and laundry room. (rev. 11/17/2015)

**Block.** A tract of land bounded by public highways, streets, or by shorelines, waterways or other definite boundaries.

**Board.** The Orange Beach Board of Adjustment.

**Boarding House, Rooming House, Lodging House, or Dormitory.** A building or part thereof, other than a hotel, motel, or restaurant, where meals and/or lodging are provided for compensation, for three (3) or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

**Boat Repair.** All repair other than normal and customary maintenance, tune ups and related repairs.

**Building.** A roofed and walled structure, attached to the ground and intended for storage, shelter, housing or enclosure for persons, animals or chattels, and intended for permanent use and/or occupation.

**Building, Alterations of.** Any change or addition to a building; any changes in use resulting from moving a building from one (1) location to another.

**Building Coverage, Building Area.** The percent of total lot area covered by buildings and structures but excluding roof overhangs, unenclosed balconies and unenclosed walkways which do not project more the six (6) inches from the exterior walls of a building or from walls enclosing an atrium.

**Building Height.** The vertical distance from grade plane to the average height of the highest roof surface.

**Building Official.** Individual elected by the City Council to carry out inspections required by the Standard Building Code.

**Building Line.** (See **Setback Line**)

**Building, Principal.** A building in which is conducted the main or principal use of the lot on which said building is situated.

**Bulk.** Height and percentage of land coverage of a building.

**Bulkhead.** A structure separating land and water areas primarily designed to resist earth or water pressures.

**Campground, Campsite.** Land upon which two (2) or more campsites are located or maintained for occupancy by camping units (whether of cloth or hard material and

whether or not same is mounted on a chase with wheels or not) as temporary living quarters for any purpose.

**Canal.** (See **Channel**)

**Canopy.** A detachable, roof like cover supported from the ground, or deck or floor of a building, and from the walls of a building, for protection from sun or weather.

**Caterer, Catering, Catering Service.** A person, business or service that provides food and incidental service at the request of an owner for a social affair or for a private dwelling for a fee but does not use commercial vehicles equipped in any manner for the purpose of transporting food to be sold directly from such vehicles. Such person, business or service is not a home occupation, is in possession of a health department permit, has a permanent fixed location, and has obtained a City business license.

**Caterer, Catering, Catering Service, Industrial.** A person, business or service that provides food only at the request of a land owner of a construction site, only for a fee, uses only commercial vehicles equipped for the purpose of transporting food to be sold directly from such vehicle and only to those employees of the construction site where the vehicle is located. Such person, business, service is not a home occupation, is in possession of a health department permit, has a permanent fixed location where the food is prepared, and has obtained a City business license.

**Cemetery.** Land used or intended to be used for the burial of the human and animal dead and dedicated for cemetery purposes including, crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

**Certificate of Occupancy.** Official certification that a premise conforms to provisions of the Zoning Ordinance and applicable building codes, and may be used or occupied; such Certificate is granted for new construction or for the substantial alteration or additions to existing structures.

**Change of Occupancy.** A discontinuance of an existing use and the substitution therefore of a use of a different kind or class; not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

**Channel.** A natural or artificial watercourse of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water; also includes canal.

**City.** The City of Orange Beach, Alabama.

**City Council.** The City Council of the City of Orange Beach, Alabama.

**Clear Cutting.** The large-scale, indiscriminate removal of trees, shrubs and undergrowth, whether or not the intention is to prepare real property for non-agricultural development purposes and includes the practice of timber harvesting.

**Clinic.** A place used for the care, diagnosis and treatment of sick, ailing, infirm or injured persons, and those who are in need of medical or surgical attention, but who are not provided with extended stay.

**Club.** A building or portion thereof or premises owned or operated for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests.

**Club, Private.** Any association or organization of a fraternal or social character not operated or maintained for profit; does not include nightclubs, or other institutions operated for a profit.

**Cluster Home.** An attached dwelling unit of one (1) story having a separate ground floor entrance and separate private yard space, with common side walls on one (1) or both sides of the dwelling unit.

**Coastal Construction [Setback] Line (CCL).** A surveyed "line" determined and designated by the Alabama Department of Environmental Management (ADEM), south of which construction is prohibited, and the purpose of which is to protect the Alabama coastline from harmful activities and effects, preserve the natural environment and its inhabitants, and protect the sand dunes.

**Collector Street.** A street which carries medium volumes of traffic collected primarily from minor streets and delivered to arterial streets; in Orange Beach, Marina Road (formerly Baldwin County Road 2), Wilson Boulevard, Gulf Bay Road, Bay La Launch Drive, Washington Blvd., Cotton Bayou Drive.

**Commercial Vehicle.** Any vehicle designed and used for transportation of people, goods, or things, other than private passenger vehicles and trailers for private nonprofit transport of goods and boats.

**Commission.** The Orange Beach Planning Commission.

**Common Open Space.** An area of land, or an area of water or combination of land and water within the area of a Development which is designed and intended for the use or enjoyment of residents of the Development in common. Common open space may contain such recreation structures and improvements as are desirable and appropriate for the common benefit and enjoyment of residents of the Planned Unit Development. Not included in this definition are streets, street rights of way and utility easements. Easements for underground utilities may be counted towards the open space requirement only if a recreation amenity is provided such as, but not limited to, jogging, walking, bicycle paths, etc.

**Condo-Hotel.** A residential condominium development in which the residential units are under single management and operated and licensed as a hotel. (rev. 02/17/2009)

**Condominium.** The form of ownership of real or personal property or a combination thereof under a declaration providing for ownership of units of the property by one (1) or more owners. Such units may consist of private elements together with an undivided interest in common and limited common elements. (rev. 02/17/2009)

**Condominium Property.** The property covered by the declaration and all easements, rights and interests belonging thereto or intended for the benefit thereof. Where such property is real property there is no requirement that it be contiguous. (rev. 02/17/2009)

**Condominium Unit.** The private elements of the condominium property together with the undivided interest in the common elements and limited common elements which are assigned thereto in the declaration or any amendment thereof. (rev. 02/17/2009)

**Convalescent or Nursing Home.** A building, or portion thereof, wherein for compensation, living accommodations and care are provided for persons suffering from illness, other than mental or contagious, which is not of sufficient severity to require hospitalization, or for persons requiring further institutional care after being discharged from a hospital other than a mental hospital; includes extended care facilities.

**Convenience Store.** A retail store which primarily carries a limited selection of basic items such as packaged foods and drugstore items, and is open long hours for the convenience of shoppers; secondary uses may include the self-service supply/sale of gasoline.

**County.** Baldwin County, Alabama.

**Day Care Center.** A place for the day care and instruction of young or elderly persons not remaining overnight.

**Deck.** A flat covered or uncovered area generally adjoining a house, building or pool, and which may be used as an outdoor sitting or recreation area.

**Declaration.** The declaration as described in section Title 35 of the Alabama Code as such declaration may be amended from time to time. (rev. 02/17/2009)

**Density.** The numerical value of the total number of dwelling units or residential lots per acre of land, usually expressed in units per gross acre and usually stated "units per acre." (rev. 02/17/2009)

**Density, Gross.** The numerical value obtained by dividing the total number of dwelling units or residential lots in a development by the gross or total area of land (in acres) within the development. (rev. 02/17/2009)

**Density, Maximum.** The density allowable in a given zoning district not limited by other applicable requirements of this Ordinance.

**Density, Net.** The numerical value obtained by dividing the total number of dwelling units or residential lots in a development by the area of the actual area of land (in acres) upon which the units or lots are proposed to be located. Net density calculations exclude right-of-ways or publically dedicated streets and nonresidential structures, land uses, and accessory facilities. (rev. 02/17/2009)

**Department.** Department means the Department of Community Development. (rev. 07/03/2007)

**Director of Community Development.** The Planning and Zoning Official of the City of Orange Beach.

**District.** A section of the area zoned within which the zoning regulations are uniform.

**Double Frontage or Through Lot.** A lot or plot, but not a corner lot that abuts upon two (2) streets, the two (2) frontages being noncontiguous.

**Drive-In, Takeout Restaurant.** An establishment where food, beverages and/or any other refreshments are prepared and served in a form ready for consumption, whether or not consumption is on or off the premises, whether or not ordered, picked up, or served to customers in vehicles or from an interior or exterior walk up window or counter.

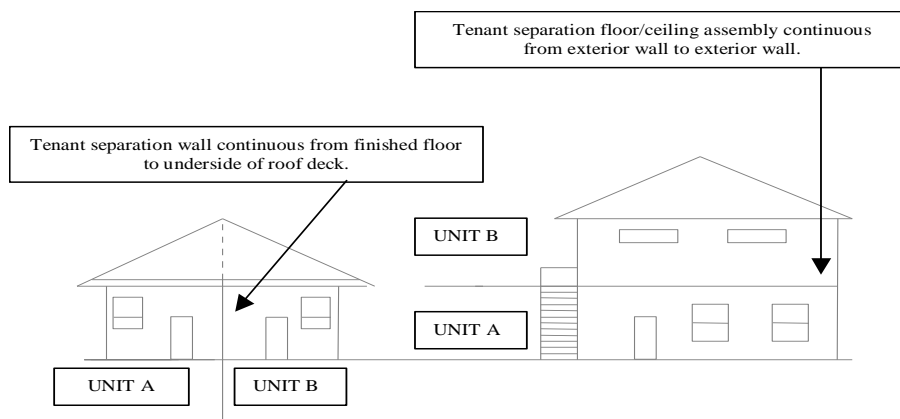
**Dwelling.** A building or portion thereof designed or used exclusively for residential occupancy, but does not include trailers, campers, hotels, motels, inns, condo-hotels, mobile homes, boarding and lodging houses, tents, tourist courts, tourist homes/"bed and breakfasts", apartments, hospitals or nursing homes. (rev. 02/17/2009)

**Dwelling Unit (DU).** Any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping and that is designed for residential occupancy. All rooms within the dwelling unit shall have internal access and the dwelling unit shall have no more than one electrical meter. A building with more than one set of facilities for cooking shall be considered multiple dwelling units unless additional facilities are clearly accessories. (rev. 12/03/2019)

**A. Single-Family.** A detached dwelling unit designed for and occupied by one (1) family as a home.

**B. Two-Family, Duplex.** A detached building on a single parcel comprised of two (2) dwelling units, each of which is totally separated from the other by an unpierced fire rated wall extending from the top of the finished floor to the underside of the roof deck, or an unpierced fire rated ceiling and floor extending from exterior wall to exterior wall, and which share a common roof and foundation. (rev. 02/17/2009)

**FIGURE 2-1: TWO-FAMILY, DUPLEX**



**C. Three-Family, Triplex.** A detached building on a single parcel comprised of three (3) dwelling units. (rev. 02/17/2009)

**D. Four-Family, Quadruplex.** A detached building on a single parcel comprised of four (4) dwelling units. (rev. 02/17/2009)

**E. Multiple Family (or Multi-Family).** A building on a single parcel comprised of three (3) or more dwelling units with each dwelling unit having cooking and living facilities, including, but not limited to triplexes and quadruplexes. (rev. 02/17/2009)

**Easement.** A grant by a property owner of the use of land for a specific purpose or purposes by the general public, or a corporation or a certain person.

**Erected.** The word "erected" includes built, constructed, reconstructed, moved upon or any physical operations on the premises required for building; excavations, fill drainage, and the like shall be considered a part of erection.

**Essential Services.** Public utility facilities related to water, storm water sewers, sanitary sewers, and solid waste disposal, telephone, cable television, gas and electrical collection or distribution systems serving the County, but not including buildings housing employees, or public safety facilities such as fire and/or police stations.

**Excavation.** Removal or recovery by any means of soil, rock, materials, organic material other than vegetation from water or land whether exposed or submerged.

**Expansion, Building or Use.** The addition of rooms or storage spaces, porches, or parking area, to an existing building or use on a parcel of land.

**Family.** An individual or two (2) or more persons related by blood, marriage or adoption, maintaining a common household in a dwelling unit; or a group of not more than four (4) persons who are not related by blood, marriage or adoption, living together as a common household in a dwelling unit. Domestic servants living on premises are included in this definition.

**Fence.** A structure, solid or otherwise, that is a barrier and used as a boundary or means of protection, confinement or concealment. (rev. 07/17/2007)

**Filling Station.** (See **Service Station**)

**Fixed Dwelling.** A dwelling unit (or structure containing several units) attached to a permanent foundation; does not include mobile homes.

**Floor Area, Gross.** The sum of the gross enclosed horizontal area of all the floors of a building, except a basement or area under the first habitable story, measured from the exterior faces of exterior walls and/or supporting columns.

**Food Processing.** The preparation, storage, or processing of food products on a large scale, e.g., bakeries, dairies, canneries, etc.

**Fully Shielded Light.** Light fixtures shielded or constructed so that no light rays are directly emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report. The shoe box type fixture must also be properly installed to effectively down direct light in order to conform with the definition. (rev. 05/17/2005)

**Garage, Commercial.** A building or portion thereof used for equipping, servicing, repairing, rental, selling and/or storage of self-propelled motor vehicles, including the supply and retail sale of gasoline, oil, grease, batteries, tires and motor vehicle accessories.

**Garage, Private.** A building or part thereof designed and/or used for inside parking of self-propelled private passenger vehicles by the occupants of the house or other principal structure on the premises or by the occupants of or employees of a particular firm.

**Garage, Public.** A building or part thereof designed and/or used for inside parking of self-propelled private passenger vehicles by the general public of the firm.

**Garage, Repair.** (See **Automobile Repair**)

**General Store.** A store that sells a wide variety of merchandise, including food, clothing, and hardware, but is not departmentalized.

**Grade Plane.** A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1,829 mm) from the building between the structure and a point six (6) feet (1,829 mm) from the building. (rev. 11/05/2024)

**Gross Acreage.** The total number of acres within the perimeter boundaries of a Planned Unit Development.

**Habitable Rooms.** All living spaces within a dwelling unit (house, apartment, townhouse, condominium, mobile home) and/or partitioned designed to be used, or that may be used as a room for the carrying on of general human activities.

**Height of Building.** (See **Building, Height**)

**Home Owners Association.** An incorporated, nonprofit organization operating under recorded land agreements through which: (A) each lot and/or homeowner in a planned or other described land area is automatically a member; and (B) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and the charge if unpaid becomes a lien against the property.

**Home Occupation.** Any occupation for gain or support customarily conducted entirely within a dwelling and carried on solely by the owners of said dwelling and which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character thereof, and in which not more than twenty-five percent

(25%) of the dwelling is used for said home occupation, and also in which there is no public display of sign or goods.

**Hotel or Motel.** Any establishment where sleeping or sleeping and eating accommodations are advertised or held out to be available to transients, whether such establishment be known as a hotel, apartment hotel, inn, tavern, club, resort, tourist home, tourist court, motel, court, motel court, motor lodge or by other like term and regardless of the number of lodging rooms, suites, or cabins available, but this term shall not be construed to include apartments, clubs, trailer courts, boarding houses, rooming houses or portions thereof where single night accommodations are not advertised or held out to be advertised. (rev. 02/17/2009)

**Improvement, Non-Substantial.** Any improvement which is not a substantial improvement which cost or value, the greater of the two (2), does not equal or exceed fifty percent (50%) of the market value of the structure added improvement.

**Improvement, Substantial.** Any addition to any structure; and extension, enlargement or expansion of any structure; and repair; reconstruction or improvement, the cost of which equals or exceeds fifty percent of the fair market value of the structure either before the repair, reconstruction or improvement is started, or if the structure has been damaged and is being restored, before the damage occurred.

**Institution, Institutional.** A nonprofit organization under the Internal Revenue Code.

**Interval Occupancy Facility.** A facility comprised of one (1) or more dwelling units in which the exclusive right of use, possession, or occupancy of each dwelling unit circulates among twelve (12) or more owners or leases thereof in accordance with a fixed time schedule on a periodically recurring basis.

**Jetty, Groin.** A rigid structure built out from a shore to protect the shore from erosion, to trap sand or to direct current, and which may also be used as a pier or landing wharf.

**Junk Yard.** Place, structure or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, bagging, cordage, barrel containers, etc. are bought, sold, exchanged, baled, packed, disassembled, or handled, including auto wrecking yards, used lumber yards, house wrecking yards, and yards or places for storage or handling of salvaged house wrecking and structural steel materials; not including pawn shops and establishments for the sale, purchase, or storage of usable second hand cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and appliances, nor shall it apply to the processing of used, discarded, or salvaged materials as part of manufacturing operations.

**Kennel.** Any place or premises where four (4) or more dogs and/or cats are kept for boarding, breeding, or sale.

**Land Area.** The total land area within the property lines of a lot.

**Land Owner.** The legal title holder of all the property in question.

**Licensee.** Any person receiving a license under the provisions of the Ordinance.

**Limited Common Elements.** A part or parts of the condominium property as set forth in the declaration in which more than one (1) but not all unit owners have an undivided interest. (rev. 02/17/2009)

**Liquor.** Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half (1/2) of one percent (1%) or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine. (rev. 02/01/2011)

**Liquor Store.** An establishment operated by the Alabama Alcoholic Beverage Control Board where alcoholic beverages other than beer are authorized to be sold in unopened containers and consumed off premise. (rev. 02/01/2011)

**Local Street.** A street which carries low volumes of local traffic primarily to/from residences, and which connect to collector streets.

**Lodging Room.** A one (1) story room, which may connect to abutting rooms by interior doors, having an independent ingress or egress from a common interior or exterior hallway or public area intended for sleeping accommodations to transients on a short term basis and not intended for use or uses as a permanent dwelling unit. Lodging rooms with a key entrance to a common interior or exterior hallway will be counted as one (1) lodging room for density calculation purposes. Lodging rooms shall be furnished and may include a mini-refrigerator and microwave, but shall not include full kitchens, full size refrigerators, stoves, dishwashers, or laundry facilities. (rev. 02/17/2009)

**Lot.** A parcel of land legally defined in a recorded deed or a recorded plat, fronting on a public dedicated right-of-way or approved private drive.

**Lot Corner.** A lot abutting upon two (2) or more streets at its intersection or upon two (2) parts of a street which form an interior angle of less than one hundred thirty-five (135) degrees; point of intersection of the street lines being the corner; the front yard shall be the frontage which reflects the 911 street address.

**Lot, Interior.** A lot other than a corner lot.

**Lot Depth.** The mean (average) horizontal distance between the front and rear lot lines, measured at right angles to the street lines.

**Lot Line, Front.** The lot line of shortest length adjacent to the street right-of-way line reflecting the 911 street address.

**Lot Line, Rear.** The lot line opposite and most distant from the front lot line.

**Lot Line, Side.** Any lot line other than a front or rear lot line; a side lot line of a corner lot separating a lot from a street being a side street lot line; a side lot line separating a lot from another lot being an interior lot line.

**Lot Width.** The mean (average) horizontal distance between the side lot lines, measured at right angles to the lot depth, with the minimum to comply with this code to be measured at the front setback line.

**Lot of Record.** A lot which is part of a recorded plat described by metes and bounds, the map and/or description of which has been recorded according to Alabama law and the Subdivision Regulations of the City of Orange Beach.

**Maintenance and Storage Facilities.** Land, buildings, and structures devoted primarily to maintenance and/or storage.

**Maneuvering Space.** The space entirely on private property required for maneuvering vehicles into and out of spaces in such a manner as to preclude the backing of any vehicle into any street right-of-way.

**Manufactured Home.** A structure built off-site that is brought to the site in one (1) piece or in pieces to be assembled to meet all the following criteria:

- A. A pitched roof of three (3) in twelve (12) or fourteen (14) degrees or greater.
- B. Removal of all transport features.
- C. Permanent foundation.
- D. Exterior wall finished in a manner compatible with the neighborhood.
- E. Underpinning with permanent materials.
- F. Orientation compatible with placement of adjacent structures.
- G. Off-street parking per single-family dwelling standards.

**Mobile Home, Trailer.** A structure, transportable in one or more sections, which is eight (8) body feet in width or more, and/or is thirty-two (32) body feet or more in length and which is built on a permanent chassis, and is designed to be used as a dwelling or for a commercial use, with or without a permanent foundation, when connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems contained therein.

**Manufacturing, Light.** Manufacturing or industrial operations which do not emit detectable dust, odor, smoke, gas or fumes beyond the bounding property lines of the lot or tract upon which the use is located and which do not generate noises or vibrations perceptible in frequency or pressure above the ambient level of noise in areas lying beyond the zone district boundaries in which such operations are located.

**Marina.** A place for docking boats and, servicing and repairing such boats and providing services to occupants and/or non-occupants as a commercial activity.

**Metal Building.** Metal-sided building; does not refer to superstructure.

**Mini Warehouse, Self-Service Storage Facility.** A building or group of buildings in a controlled access compound that contain varying sizes of individual, compartmentalized and controlled access stalls, cubicles and/or lockers used for the storage of personal property. (rev. 01/03/2017)

**Mobile Home Park.** A residential development on a parcel of land in one ownership providing rental spaces for two (2) or more mobile homes on a long term basis, i.e. more than one hundred eighty (180) days and may have recreation and service facilities for the tenants.

**Mobile Home Space.** A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

**Mobile Home Subdivision.** A residential development designed for the accommodation of mobile homes on individually owned lots or in condominium or cooperative ownership, including recreation and open space areas held in common ownership, but not including developments serving tourist or vacation oriented travel, motor homes, campers, etc.

**Modular Home.** Manufactured housing constructed under codes regulated by the Alabama Manufactured Housing Commission; has a certification label from the State Commission but not from HUD; required to be constructed on a permanent foundation designed by an Alabama Registered Architect or Engineer in compliance with the requirements of the International Residential Code.

**Motel, Motor Hotel.** (See **Hotel**)

**Neighborhood Lounge, Bar or Tavern.** An establishment which primarily serves refreshments for consumption on the premises to its patrons, and which does not allow facilities for dancing, not to include private clubs.

**Net Residential Acreage.** Land used or proposed to be used for the placement of dwelling units and their accessory uses, private open spaces, parking areas, etc., and does not include streets or public recreation or open spaces.

**Nightclub.** An establishment which primarily serves refreshments for consumption on the premises to its patrons, and which allows facilities for food, live entertainment and/or dancing,

**Non-Chartered Financial Institution.** Any business, other than a federally and state chartered bank, credit union, mortgage lender or savings and loan association that offer check cashing services, automobile title loans, and loans for payment of a percentage or graduated fee. Specifically includes are check cashing and pawn shop businesses that charge a percentage or graduated fee for cashing a check or negotiable instrument and “payday loan” businesses which make loans upon assignment of wages received or businesses that function as deferred presentment services. (rev. 02/01/2011)

**Nonconforming Use.** A use of land or structures existing lawfully at the time of the enactment of this Ordinance, or at the time of a zoning amendment, and which does not now conform with the regulations of the district in which it is located.

**Nursery.** Land, building, structure, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for wholesale or retail sale on the premises including products used for gardening or landscaping.

**Nursery School.** A place for the day care and instruction of children not remaining overnight, including day care centers.

**Offices.** Space or rooms used for professional, administrative, clerical, and similar uses.

**Open Space.** An area open to the sky which may be on the same lot with a building, and may include, along with the natural environmental features, swimming pools, tennis courts or any other recreational facilities, but not including streets, structures for habitation.

**Open Space, Permanent Usable, in Planned Unit Developments.**

- A. privately owned and occupied area of a separate lot or tract, outside of any buildings on the lot;
- B. privately occupied open space assigned to an individual dwelling unit in a project and not occupied by the dwelling;
- C. any space not occupied by buildings or privately owned lots or privately owned space; may consist of access driveways, and any other area suitable for the common enjoyment of the residents of the development.

**Overlay District.** A zoning district that encompasses one (1) or more underlying zones and imposes additional requirements above or modifies requirements of that required by the underlying zone or zones.

**Package Store, Alcoholic Beverage Retailer.** An establishment licensed by the Alabama Alcoholic Beverage Control Board or engaged in the retail sale of any alcoholic beverages to consumers and authorized to be sold in unopened containers and consumed off premise. This definition does not include convenient stores, drug stores, grocery stores and supermarkets that sell beer and wine as an accessory to the retail sale of food products and beverages, novelties, clothing or any other items of general merchandise. (rev. 02/01/2011)

**Park, Public.** A natural or landscaped area, buildings or structures provided by the municipal, county, state or national government to meet the active and passive recreational needs of the public. Public parks include neighborhood parks, municipal parks, county parks, state parks, public beach access areas, public boat launch areas, recreational facilities (community centers, gyms, tennis courts, swimming pools), athletic fields (baseball, softball, soccer), dog parks, walking trails, and playgrounds. (rev. 03/21/2017)

**Parking Space, Off-Street.** Parking space, off-street means a space for the parking of a motor-driven vehicle within a parking lot and having a permanent means of access to a

street right-of-way without requiring passage through another parking space. Such space shall meet all dimension and angle criteria in Article 8 of this Ordinance.

**Pawn Shop.** An establishment that lends money on the security of goods pledged by the owner of such goods on the condition that the goods may be redeemed or repurchased by the owner for a fixed price within a fixed period of time. This definition includes car title pawn companies which provide the borrower with cash in exchange for the borrower's vehicle title as collateral. (rev. 02/01/2011)

**Permanent Cosmetic Establishment.** An establishment whose principal business activity, either in terms of operation or as held out to the public, is the permanent application of pigment into the skin for eyebrows, eyeliners, lip liner, blush and scar camouflage. (rev. 02/01/2011)

**Permit.** Any correctly issued written authorization by a duly appointed City representative for an individual, firm, trust, partnership, association or corporation to undertake activities related to subdivisions, zoning, land use, building, erection, excavation, or other permitted activities.

**Permittee.** Any individual, firm, trust, partnership, association or corporation to whom a permit is granted, including any person to whom a temporary permit is issued.

**Person.** Any individual, firm, trust, partnership, association, organization or corporation.

**Plat.** An engineering drawing which provides for all data related to a development of land and certified as to accuracy by a land surveyor or engineer.

**Plan.** The proposal for development of a Planned Unit Development, including a plat of subdivision, all covenants, grants of easement and other conditions relating to use, location and bulk of buildings, density development, common open space and public facilities.

**Planned Unit Development.** The Planned Unit Development (PUD) is a special zoning classification that permits flexibility in densities, setbacks, uses, open space and other bulk and area requirements for property that would otherwise be mandated by the Zoning Ordinance and Subdivision Regulations. The classification is voluntary, and nothing in this Ordinance guarantees a property owner the right to develop a PUD. PUDs shall be approved only if the proposed development fully meets the letter, intent, purpose and requirements of Article 7 of this Ordinance. (rev. 07/03/2007)

**Porch.** A roofed over space attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior walls of such building; open mesh screening shall not be considered an enclosure.

**Portable Building.** A building which is not a dwelling unit and which has dimensions and weight permitting transport by motor vehicle.

**Privacy. Opaque or Solid Fence.** A fence providing concealment of enclosed activities from view of adjoining properties or streets when viewed perpendicular to the plane of the fence. Such fences shall be constructed of wood, metal, brick, stone or reinforced

concrete products, or other permanent materials or durable decay-resistant construction. Chain-link fencing with attachments such as slats, panels, fabric or similar materials is not included in the definition of a solid, privacy fence. (rev. 11/15/2007)

**Private Element.** A part or parts of the condominium property as set forth in the declaration and intended for exclusive ownership or possession by a unit owner. (rev. 02/17/2009)

**Public Land Uses.** Any land use operated by or through a unit or level of government, either through lease or ownership.

**Recreational Vehicle.** A vehicle used for temporary housing of individuals and families during travel, including campers, camping trailers and motor homes.

**Residential Dock or Pier.** A dock or pier constructed adjacent to a residential lot used for recreational purposes and/or mooring of private boats.

**Restaurant.** An establishment where food, beverages, and any other food stuffs are prepared, served and consumed primarily on the premises. This definition includes establishments (A) with or without outdoor seating or counters; (B) that take orders prior to sale or delivery; (C) that has the requisite number of sewer taps and a City business license.

**Restrictive Covenants.** Private regulations recorded with the Final Plat, which limit or otherwise govern the use or development criteria of the land within a subdivision or parcel of land; restrictive covenants are not enforced by the City.

**Retaining Wall.** A wall of wood, brick, concrete or other suitable material designed to prevent erosion of soil from sharply sloping land or from around pools, decks, foundations and other similar structures.

**Revetment.** A facing of stone, concrete, etc., built to protect an embankment.

**Right-of-Way.** A strip of land dedicated or reserved for use as a public way and may include improved roadways, curbs, lawn strips, sidewalks, lighting and/or drainage facilities, etc.

**Roadside Stand.** A temporary structure designed or used for the display or sale of products of a seasonal nature.

**Rooming House.** Rooming, lodging and boarding house means a building or establishment which provides for more than four (4) but fewer than twelve (12) persons and may provide meal service. The building or facility shall be so arranged as to permit passage between all living elements such as dining, kitchen and bathrooms. Detached units or private access accommodations are not permitted.

**Satellite Receiving Dishes.** A dish shaped antenna designed to receive television broadcasts relayed by microwave signals from earth orbiting communications satellites; definition also includes satellite earth stations and television dish antennas.

**Seat.** For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty-four (24) linear inches of benches, pews, or space for loose chairs.

**Semi-Public Land Uses.** Philanthropic and charitable land uses including, but not limited to, YMCAs YWCAs Salvation Army, churches and church institutions, orphanages, humane societies, private welfare organizations, nonprofit lodges and fraternal orders, hospitals, Red Cross, and other general charitable institutions.

**Service Station.** A building which primary use is the supply and dispensation of gasoline, oil and greases services and products to the motor vehicle trade; may contain a convenience store as an ancillary use.

**Setback Line.** A line established by the Subdivision Regulations and/or Zoning Ordinance, parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building or structure, may be located above ground; setback lines extend the complete length or width, as applicable, of the property.

**Sewers, Public or Community.** An approved sewage disposal system which provides a collection network and disposal system and central treatment facility for a single community, development or region.

**Sewage Treatment, Onsite.** A septic tank or similar installation on an individual lot which utilizes a bacteriological or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to compliance with health and sanitation laws.

**Shopping Center.** A group of commercial establishments planned, constructed and managed as an entity with customer and employee parking provided onsite.

**Story.** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

**Story above Grade Plane.** Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is:

- A. More than six (6) feet (1829 mm) above grade plane;
- B. More than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or
- C. More than twelve (12) feet (3658 mm) above the finished ground level at any point.

**Street.** A facility, either public or private and either deeded or an easement, which affords access to abutting property, and includes the entire area between street lines (rights of way lines), providing primary access to abutting property and is intended for vehicular traffic.

**Street Address.** The lot address as determined by the 911 system.

**Structural Alterations.** Any change, except the repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams, or girders, or the rearrangement of any interior partitions affecting more than five percent (5%) of the floor area of the building.

**Structurally Unsound.** A condition that exists when a structure is unable to support the loads imposed on it by any codes adopted by the City.

**Structure.** Anything erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground. Among other things, structures include but are not limited to walls, carports, fences, bulkheads, signs, screened enclosures, towers, gas or liquid storage tanks, gazebos, pools, and parking decks. Trash containers/receptacles and mailboxes, utility poles and overhead wiring are not considered structures. However, cell or repeated towers are structures.

**Structure, Accessory.** A subordinate structure that is detached from but on the same lot as, the principal structure, and the use of which is (A) reasonably necessary to the use of the principal structure; (B) subordinate to the principal structure; and (C) does not change or alter the character of the premises. Parking areas, driveways, trash containers/receptacles, telephone and other utility poles, retaining walls, bulkheads, and fences are not accessory structures. (rev. 02/17/2009)

**Structure, Existing.** Any structure the construction of which was initiated prior to the effective date of this Ordinance and for which all applicable authorizations have been obtained.

**Structure, Principal.** A building in which is conducted or is intended to be conducted as the main or principal use of the lot on which it is located. For detached single-family dwelling units, there shall be internal access to all interior portions of the structure. Any outlying structures shall be considered an accessory structure unless connected to the principal structure by fully enclosed living space. (rev. 02/17/2009)

**Subdivision.** The division or re division of a parcel of land or lands into two (2) or more parcels as provided for in the Subdivision Regulations; also includes the joining or rejoining of parcels.

**Substantial Construction.** A considerable amount either in quantity, value or size of the proposed improvements that have been built, installed, or completed.

**Tattoo Parlor, Body-Piercing Studio.** An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one (1) or more of the following: (A) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of skin by means of the use of needles or other instruments designed to contact or puncture the skin; (B) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration. This definition excludes permanent cosmetic establishments. (rev. 02/01/2011)

**Tourist Home/"Bed and Breakfast".** A building or part thereof, other than a motel or hotel, where single-night sleeping accommodations are provided for transient guests, with or without meals and which may also serve as the residence of the operator.

**Townhouse/Townhome.** An attached dwelling unit of at least two (2) stories having a separate ground floor entrance and separate private yard space, with common sidewalls on one (1) or both sides of the dwelling unit.

**Travel Trailer Park, Recreational Vehicle Park.** A development for the accommodation of tourists or vacationers on a short term basis, less than one hundred eighty (180) days, providing rental spaces for each individual trailer, camper, motor home, etc., and recreation and service facilities for the use of the tenants.

**Use.** The specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

**Vacation Rental.** A single-family dwelling unit or two-family dwelling unit, duplex constructed for residential occupancy under City Code in which the Owner or Authorized Lessee offers hosted or non-hosted accommodations for periods of fourteen (14) consecutive days or less. Vacation rental does not include any accessory structure such as garages and storage shed. (rev. 04/03/2018)

**Variance.** A relaxation of certain regulations contained in this Ordinance, where such variance shall not be contrary to the public interest and where, owing to conditions unique to the property and not the result of the actions of the applicant, a literal enforcement on the Ordinance would result in unnecessary and undue hardship.

**Vehicular Sales.** The storage and display for sale of more than one (1) motor vehicles, whether registered or not, in the name of the owner of the land or lot. This definition includes boats, any type of trailer (provided the trailer is unoccupied), or any other type of vehicle or machinery, operational or not. It also includes retail and wholesale sales.

**Waterway.** Any body of water, including any creek, canal, channel, river, lagoon, lake, bay or gulf, natural or artificial except a swimming pool or ornamental pool.

**Wholesale Establishment.** Business establishments that generally sell commodities to retailers, jobbers, other wholesale establishments, or manufacturing establishments; these commodities being basically for further resale, for use in the fabrication of a product, or for use by a business service.

**Yard.** A space on the same lot with a main building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted and complying with applicable building codes.

**A. Yard, Front.** An open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot; the depth of the front yard shall be measured between the front lines of the building and the right-of-way line. The owner of a corner lot shall have the option as to which of the two or more

fronting streets/avenues shall be the front of the property by establishing the 911 street address.

- B. Yard, Gulfside.** A yard on any lot abutting the Gulf of Mexico across the full width of the lot extending from the coastal construction setback line established by the Alabama Department of Environmental Management seaward to the mean high tide.
- C. Yard, Rear.** An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building, extending the full width of the lot and the rear lot line; on all corner lots, the rear yard being at the opposite end of the lot from the front yard.
- D. Yard, Side.** An open, unoccupied space on the same lot with a main building, situated between the side line of the same building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard; if no front yard is required, the rear boundary of the side yard being the rear line of the lot; on corner lots, the side yard being considered as parallel to the street upon which the lot has its greatest dimension.
- E. Yard, Minimum.** That yard space that must remain when the property is developed to the fullest extent allowable under applicable ordinances and codes.

**Zoning Official.** The administrative officer appointed to administer the zoning ordinance and issue Certificates of Zoning Compliance. In the City of Orange Beach the designated administrative officer shall be the Director of Community Development.