mediately surrounding the home."[320] Nor may an individual demand privacy for activities conducted within outbuildings and visible by trespassers peering into the buildings from just outside.[321] Even within the curtilage and notwithstanding that the owner has gone to the extreme of erecting a 10-foot high fence in order to screen the area from ground-level view, there is no reasonable expectation of privacy from naked-eye inspection from fixed-wing aircraft flying in navigable airspace.[322] Similarly, naked-eye inspection from helicopters flying even lower contravenes no reasonable expectation of privacy.[323] And aerial photography of commercial facilities secured from ground-level public view is permissible, the Court finding such spaces more analogous to open fields than to the curtilage of a dwelling.[324]

"Plain View".—Somewhat similar in rationale is the rule that objects falling in the "plain view" of an officer who has a right to be in the position to have that view are subject to seizure without a warrant[325] or that, if the officer needs a warrant or probable cause to search and seize, his lawful observation will provide grounds there-

---

[320] 466 U.S. at 178. *See also* California v. Greenwood, 486 U.S. 35 (1988) (approving warrantless search of garbage left curbside "readily accessible to animals, children, scavengers, snoops, and other members of the public").

[321] United States v. Dunn, 480 U.S. 294 (1987) (space immediately outside a barn, accessible only after crossing a series of "ranch-style" fences and situated one-half mile from the public road, constitutes unprotected "open field").

[322] California v. Ciraolo, 476 U.S. 207 (1986). Activities within the curtilage are nonetheless still entitled to some Fourth Amendment protection. The Court has described four considerations for determining whether an area falls within the curtilage: proximity to the home, whether the area is included within an enclosure also surrounding the home, the nature of the uses to which the area is put, and the steps taken by the resident to shield the area from view of passersby. United States v. Dunn, 480 U.S. 294 (1987) (barn 50 yards outside of fence surrounding home, used for processing chemicals, and separated from public access only by a series of livestock fences, by a chained and locked driveway, and by one-half mile's distance, is not within curtilage).

[323] Florida v. Riley, 488 U.S. 445 (1989) (view through partially open roof of greenhouse).

[324] Dow Chemical Co. v. United States, 476 U.S. 227 (1986) (suggesting that aerial photography of the curtilage would be impermissible).

[325] Washington v. Chrisman, 455 U.S. 1 (1982) (officer lawfully in dorm room may seize marijuana seeds and pipe in open view); United States v. Santana, 427 U.S. 38 (1976) ("plain view" justification for officers to enter home to arrest after observing defendant standing in open doorway); Harris v. United States, 390 U.S. 234 (1968) (officer who opened door of impounded automobile and saw evidence in plain view properly seized it); Ker v. California, 374 U.S. 23 (1963) (officers entered premises without warrant to make arrest because of exigent circumstances seized evidence in plain sight). *Cf.* Coolidge v. New Hampshire, 403 U.S. 443, 464–73 (1971), and id. at 510 (Justice White dissenting). Maryland v. Buie, 494 U.S. 325 (1990) (items seized in plain view during protective sweep of home incident to arrest); Texas v. Brown, 460 U.S. 730 (1983) (contraband on car seat in plain view of officer who had stopped car and asked for driver's license); New York v. Class, 475 U.S. 106 (1986) (evidence seen while looking for vehicle identification number). There is no