

**ARTICLE II
DEFINITIONS AND WORD USAGE**

SECTION 200 WORD USAGE; ADMINISTRATIVE AGENCIES DEFINED

A. Word Usage

1. All words used in the present tense include the future tense.
2. All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
3. The word "person" includes an association, partnership or corporation.
4. Unless otherwise specified, all distances shall be measured horizontally.
5. The word "building" includes the word "structure."
6. "Lot" includes the words "plot," "parcel" or "tract."
7. The word "premises" includes a lot and all buildings or structures thereon.
8. To "erect," "to construct" and "to build" a building or structure each have the same meaning and also include "to excavate" for a building and "to relocate" a building by moving it from one (1) location to another.
9. "Used" shall be deemed also to include "designated, intended or arranged to be used or occupied."
10. "Shall" is mandatory and not discretionary "may" is permissive.
11. **"He" and "Him" is the same as "She" and "Her."**
12. **Any refer to "Ordinance" is the same as "Law" and any reference to "Law" is the same as "Ordinance."**

B. Administrative Agencies Defined

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1. BOARD OF APPEALS, **a/k/a ZBA** - The Zoning Board of Appeals of the Town of Middlebury.
2. COUNTY PLANNING BOARD - The Planning Board of the County of Wyoming.
3. DEPARTMENT OF HEALTH - The Wyoming County Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.
4. ENFORCEMENT OFFICER - The public official appointed by the Wyoming County Board of Supervisors to enforce the New York State Uniform Fire Prevention and Building Code in Wyoming County.
5. PLANNING BOARD, **a/k/a PB** - The Planning Board of the Town of Middlebury.
6. TOWN BOARD - The Town Board of the Town of Middlebury.
7. ZONING OFFICER, **a/k/a ZO** - The official designated by the Town Board of the Town of Middlebury to enforce the provisions of this Law.

SECTION 201 DEFINITIONS

As used in this Law, the following terms shall have the meanings indicated:

ACCESSORY - The term applied to a building or use which: (1) is customarily incidental and subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience or necessity of occupants of the principal building or principal use; and, (4) is located on the same zoning lot as the principal building or principal use.

AEROBIC DIGESTION SYSTEMS - ~~Animal waste is fed into shallow earthen "cells" with a slight grade so that solids settle out and decompose aerobically and the liquid drains away by gravity to another lower pond (with no outlet) where it is stored until it can be field applied or recirculated and used for flushing free stall facilities. The activated sludge aeration process whereby primary wastes and secondary sludges are continually~~

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aerated for long periods of time. In aerobic digestion the microorganisms extend into the endogenous respiration phase, which is a phase where materials previously stored by the cell are oxidized, with a reduction in the biologically degradable organic matter. This organic matter, from the sludge cells is oxidized to carbon dioxide, water and ammonia. The ammonia is further converted to nitrates as the digestion process proceeds. Eventually, the oxygen uptake rate levels off and the sludge matter is reduced to inorganic matter and relatively stable volatile solids.

AGRICULTURAL OR FARMING ACTIVITIES - The use of the land for agricultural purposes including farming, dairying, pasturage, truck farms or nurseries, agriculture, horticulture, viticulture, **silviculture, aquaculture**, apiaries, and animal and poultry husbandry, **maple syrup production** and the necessary accessory uses for storage; provided, however, that the operation of any such accessory use shall be incidental to that of the principal agricultural activities.

AIRSTRIP - Any area of land designed for private non-commercial use of airborne craft, including hangars, taxi-ways and landing strips.

ALTERATIONS - As applied to a building or structure, the change or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or in the exit facilities; an enlargement of a building or structure, whether by extending on a side or by increasing in height; the moving from one (1) location or position to another; any alteration whereby a structure is adapted to another or different use.

~~ANIMAL WASTE MANAGEMENT SYSTEM - A planned system approved by the Wyoming County Soil and Water Conservation District in which all necessary components are installed for managing animal wastes and/or on-farm wastes both liquid and solid, including run-off from concentrated waste areas, in a manner that does not degrade air, soil or water resources. LL No. 1/2007~~

ANIMAL WASTE STORAGE FACILITIES - A planned system designed in accordance with NRCS (National Resource Conservation Service), or a like or successor agency, procedures and specifications in which all necessary components are installed for managing animal wastes and/or on-farm wastes both liquid and solid, including run-off from concentrated waste areas, in a manner that does not degrade soil or water resources. **LL No. 1/2007**

APARTMENT BUILDING - A building arranged, intended or designed to be occupied by three (3) or more families living independently of each other, but having common hallways and entrances.

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AREA OF SPECIAL FLOOD HAZARD - Land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year.

BASE FLOOD - The flood having a one (1) percent chance of being equaled or exceeded in any one given year.

BED & BREAKFAST - An owner-occupied one-family dwelling in which a room or rooms are rented on a nightly basis for periods of less than two (2) weeks per guest. Breakfast may or may not be provided.

~~BOARDING HOUSE (ROOMING HOUSE) - A dwelling other than a hotel, motel or lodging house, where more than two (2) persons are housed or lodged for hire with or without meals. See ROOMING HOUSE.~~

BODY RUB/MASSAGE ESTABLISHMENT/ADULT – Any establishment which provides as a substantial or significant portion of its business, body rubs upon the public or massages without a license as required by Article 155 of the New York State Education Law or its successors. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath , duly licensed physical therapist, or duly licensed masseuse or masseur or barbershops or beauty salons in which massages are administered to the scalp, face, neck or shoulders. This definition also shall exclude health clubs which have facilities for physical exercise and which do not receive their primary source of revenue through the administration of massages.

BOOK STORE/ADULT – A commercial enterprise which has a substantial portion of its stock-in-trade printed, visual or audio material of any kind or other novelties which are characterized by their emphasis on specified anatomical areas or specified sexual activities, including any such establishment having a substantial area devoted to the sale, rent and display of such material. For purposes of this definition, “substantial portion” or “substantial area” shall mean ten percent (10%) or more of any of the following:

- 1. The number of different titles or kinds of such merchandise;**
- 2. The number of copies or pieces of such merchandise;**
- 3. The amount of floor space devoted to the sale and display of such merchandise; or**
- 4. The amount of advertising which is devoted to such merchandise**

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either in print or otherwise promoted via the broadcast media.

BUFFER AREA - A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms not less than ten (10) feet in depth and not less than six (6) feet in height densely planted and designed to provide a physical screen preventing visual access from one (1) use to another and to reduce the escape and/or intrusion of litter, fumes, dust, smoke, noise, or other noxious or objectionable elements.

BUILDING - Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, property or business activity.

BUILDING AREA - The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

BUILDING HEIGHT - The vertical dimension measure from the average elevation of the finished grade level at the front of the building to the highest point of the structure.

BUILDING LINE - A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building of any side. In case of a cantilevered section of a building or a projected roof or porch, the vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two (2) feet in width. All yard and setback requirements are measured to the building lines.

BUILDING PRINCIPAL - A building in which is conducted the main or principal use of the lot on which said building is situated.

CAMPING GROUND - A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same, but excluding mobile manufactured homes designed for year-round occupancy or as a place of residence.

CERTIFICATE OF COMPLIANCE – **A certificate issued by the Zoning Officer that certifies that the property, previously in violation of the Zoning Law, now conforms.**

CERTIFICATE OF OCCUPANCY - A certificate issued by the Enforcement

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Officer upon completion of construction or alteration of a building. Said certificate shall acknowledge compliance with all of the requirements of the Uniform Code. The Zoning **Enforcement** Officer may issue a Certificate of Occupancy for the change in use of an existing building. ~~or for the use or change in use of a parcel of land with no buildings.~~

CLUB - An organization catering exclusively to members and their guest, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided **that** there are not ~~conducted~~ any vending stands, merchandising or commercial activities except as required generally for the membership and purposes for such club.

CLUSTER **RESIDENTIAL** DEVELOPMENT - A development of residential lots, each containing less area than the minimum lot area required for the zone **district** within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

COMMERCIAL COMMUNICATION TOWER – A structure, including one (1) or more antennas, that is intended for transmitting and/or receiving radio, television, telephone or microwave communications but excluding those used either for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar communications.

COMMERCIAL RECREATION - A recreation use or ~~facility~~ *associated facilities* designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities outside of an enclosed building. Examples include, but are not limited to, team sports playing fields; including stadiums and arenas; golf courses and driving ranges; miniature golf; batting and pitching cages; hard or soft courts; skateboard parks; motorized vehicle racing; pony rides; gun clubs; firearms and archery ranges; swimming pools; water slides; ice rinks and amusement parks and outside activities that are similar in nature as determined by the Planning Board.

CONTRACTOR'S YARD – Businesses engaged in construction of buildings and structures, remodeling and repairs to existing buildings and structures, electrical services, plumbing services, excavation and grading services, roofing and siding services, masonry services, paving services, well drilling, sewage disposal system installation and services, and other similar services.

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DRIVE-IN THEATER/ADULT – *A drive-in theater presenting to an audience, of one (1) or more persons, films, tapes, videotapes, slides, DVD's, computer generate images, or computer programs depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by a person or persons therein. This definition shall also include commercial establishments offering private visual presentations of such films, tapes, videotapes, slides, DVD's or computer generate images, which are open to the public generally but exclude any minor by reason of age.*

DRIVEWAY - A roadway providing a means of access from a street to a property or off-street parking area. An access way may also be deemed a driveway.

DWELLING - A building designed or used for one (1) or more families. The term dwelling shall not be deemed to include a motel, hotel, boarding house or travel trailer **recreational vehicle**.

~~DWELLING, MOBILE **MANUFACTURED** HOME~~—A residential dwelling unit designed for transportation after fabrication on streets or highways, on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like. All mobile **manufactured** homes built after June 15, 1976 shall meet the National Manufactured Home Construction and Safety Standards as set forth by the U.S. Department of Housing and Urban Development. A travel trailer shall not be considered as a mobile **manufactured** home dwelling.

DWELLING, MULTIPLE FAMILY - A residential building designed for or occupied by three (3) or more families living independently of each other with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, MULTIPLE FAMILY COMPLEX - A series of multiple family dwellings, designed and built as an integrated development with a common architectural style.

DWELLING, SINGLE FAMILY - A detached residential dwelling unit, other than a mobile home **including manufactured homes**, designed for and occupied exclusively by one (1) or more persons living as a single non-profit housekeeping unit.

DWELLING, TWO-FAMILY - A detached residential building, containing two (2) dwelling units, designed for occupancy and used exclusively by two (2) families

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living independently of each other.

DWELLING UNIT - A building, or portion thereof, which provides housekeeping facilities for a single family.

EARTH SHELTERED HOUSING - A residential structure which has not less than fifty (50) percent of its exterior envelope covered by earth in order to moderate temperature extremes and to serve as a passive means of lowering the dependence of the residence on artificial climate control derived from fossil fuel energy. The term shall include underground houses, earth contact homes, terratectural designs and geo-built houses.

EARTHEN AEROBIC DIGESTION SYSTEMS - ~~Animal waste is fed into shallow earthen "cells" with a slight grade so that solids settle out and decompose aerobically and the liquid drains away by gravity to another lower pond (with no outlet) where it is stored until it can be field applied or recirculated according to proper farm practice. See AEROBIC DIGESTION SYSTEMS.~~

EARTHEN STORAGE POND - Usually a single anaerobic pond designed to provide temporary storage (6-12 months) of animal waste until it can be field applied. ~~Once the pond crusted over, odor from the storage is significantly reduced. Odors are strong when the pond is agitated (to pump the slurry) and when surface spread to fields. Odors may remain strong if the pond is loaded from the top. according to accepted best farm management practice.~~

ELECTROMAGNETIC INTERFERENCE (EMI) – The interference to communication systems created by scattering of electromagnetic signals. **LL No. 1/2007**

ENTERTAINMENT CABARET/ADULT – A public or private establishment which presents topless dancers, strippers, male or female impersonators or exotic dancers or other similar entertainment and which establishment is customarily open to the public generally but excludes any minor by reason of age.

ENTERTAINMENT ESTABLISHMENT/ADULT – Any business enterprise which is other than an adult bookstore which has presentations characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities during live shows, motion-picture films, videotapes, DVD's or sound recordings presented to an audience of one (1) or more individuals. Also included in this definition is

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any business enterprise, other than a bona fide medical or health service establishment licensed by the State of New York, requiring a client or display any specified anatomical area.

ESSENTIAL SERVICES - The erection, construction, alteration or maintenance by public utilities or any governmental department or commission of underground or overhead gas, electrical, telecommunications or water transmission and/or distribution systems, including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies, or for the public health, safety or general welfare. This definition expressly excludes power generator facilities or sites for the disposal of waste materials associated with the provision of such services.

EXCAVATION - The process of removal of sand, gravel, soil (including topsoil) or other natural deposits by stripping, digging or other means.

EXCAVATION SITE - A parcel of land used for the purpose of extracting stone, sand, gravel or topsoil for sale as an industrial or commercial operation.

FAMILY - One (1) or more persons, related by birth, marriage or other domestic bond, occupying a dwelling unit and living as a single non-profit housekeeping unit.

FARM - Any parcel containing at least ten (10) acres of land which is worked for gain in the growing of agricultural products or the raising of animals. It includes necessary farm structures within the prescribed limitations and storage of equipment used. It excludes riding academies, livery or boarding stables or kennels. Farm activities may be permitted on parcels of land of less than ten (10) acres, however, the raising of fur bearing animals, swine and poultry on smaller parcels of land in **Rural** Residential districts may only be permitted with a special **use** permit.

FARM ANIMAL, CUSTOMARY - Any domestic or domesticated animal produced or kept primarily for farm, ranch or market purposes, including but not limited to, beef or dairy cattle; hog and pigs; *lamb*s and sheep; goats, ponies, horses, *lamb*s mules and burros; llama and alpacas; emus and ostriches; fowl such as chickens, turkeys, geese and ducks; and the like.

FARM BUILDING - Any building used for the housing of agricultural equipment,

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produce, livestock or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of the farm as defined by this Article. The term farm building shall not include "farm dwelling."

FARM DWELLING - A dwelling located on a farm and occupied by a family engaged in agricultural activities.

FENCE - A structure of wood, masonry, wire mesh or other material which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.

FINISHED GRADE LEVEL - The level where the finished grade of the ground intersects the foundation walls. Height measurement shall be based from the finished grade level.

FLOOD INSURANCE RATE MAP (FIRM) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the town.

FLOOD INSURANCE STUDY - The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary - Floodway Map and the water surface elevation of the base flood.

FLOODWAY - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood.

FLOOR AREA, GROSS - The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the inside faces of exterior walls or from the center line of walls separating two (2) uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, gross floor area shall not include areas used principally for non-public purposes such as storage, restrooms, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

FLOOR AREA, HABITABLE - The horizontal area of any floor of a building designed and intended for living purposes, which includes working, sleeping, eating, cooking or recreational or combination thereof. A floor used only for storage purposes is not a "habitable floor." All dimensions shall be measured from the interior faces of exterior walls or from the center line of the base of walls separating two (2) dwelling units.

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GARAGE, PRIVATE - An accessory building which provides for the storage of motor vehicles or household items by the occupants on the lot upon which it is erected, with no provision for repairing or servicing such vehicles for profit.

GARAGES, PUBLIC OR REPAIR - Any garage other than a private garage operated for gain, available to the public, which is used for the storage, repair, servicing or rental of motor vehicles.

HOME BASED BUSINESS - A business, profession, occupation or trade conducted for gain or support, other than a Home Occupations Minor or Home Occupations Major as defined herein, conducted within or on the same lot as an occupied single-family dwelling by the inhabitants thereof. Home-Based Businesses may involve the provision of services or the manufacture and/or sale of goods on the premises, except that the following types of businesses shall not be considered to be Home-Based Businesses:

1. Motor vehicle repair;
2. Motor vehicle, boat and manufactured home sales and rentals;
3. Fuel outlets (including gas stations and mini-marts);
4. Drive-in businesses;
5. Scrap and salvage material storage and sales (including junkyards);
6. Laundries and dry-cleaning establishments;
7. Recreation, entertainment, or amusement enterprises;
8. Restaurants and tearooms;
9. Tourist homes and bed and breakfast establishments;
10. Biological or medical testing laboratories, clinics, hospitals and convalescent homes;
11. Funeral homes;
12. Kennels, stables, animal hospitals and veterinarian offices;
13. Building supply and farm equipment stores;

Examples of Home-Based Businesses:

1. Lumber Drying, Milling
2. Tree Trimming
3. Logging
4. Construction of Dwellings, Storage Buildings
5. Construction of Driveways, Ponds, Building Site

Yard sales, garage sales and any similar type of sales exceeding four (4) calendar weeks shall be considered to be a home based business and

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subject to the provisions therefore.

~~HOME OCCUPATION – Any occupation customarily conducted entirely within a dwelling or a building accessory to the dwelling by the habitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation shall not be interpreted to include the following:~~

- ~~1. Commercial stables and kennels;~~
- ~~2. Restaurants;~~
- ~~3. Musical and dancing instruction to groups exceeding four (4) pupils **at a time**;~~
- ~~4. Convalescent homes;~~
- ~~5. Mortuary establishments;~~
- ~~6. Garages or shops for the repair of motor vehicles;~~
- ~~7. Retail businesses;~~
- ~~8. Trades and service establishments.~~

HOME OCCUPATION MAJOR - Home Occupations Major is a business, profession, occupation or trade conducted for gain or support conducted within a residential building, or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. Home Occupations Major shall be owned and operated by the occupant of the residential structure and only by the person or persons maintaining their primary residence in said dwelling unit. For the purposes of this section, primary residence is defined as the location of an individual's residence for more than six (6) months of the year. The following types of businesses shall not be considered to be Home Occupations Major:

- 1. Motor vehicle repair;**
- 2. Motor vehicle, boat, and manufactured home sales and rental;**
- 3. Fuel outlets (including gas stations and mini-marts);**
- 4. Drive-in businesses;**
- 5. Scrap and salvage material storage and sales (including junkyards);**

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6. **Laundries and dry-cleaning establishments;**
7. **Recreation, entertainment, or amusement enterprises;**
8. **Restaurant and tearooms;**
9. **Tourist homes and bed and breakfast establishments;**
10. **Biological and medical testing laboratories;**
11. **Clinics, hospitals and convalescent homes;**
12. **Funeral homes;**
13. **Kennels, stables, animal hospital and veterinarian offices;**
14. **Building supply and farm equipment stores.**

Examples of Home Occupations Major:

1. **Hair Dresser/Hairstylist**
2. **Accounting /Bookkeeping**
3. **Seamstress**
4. **Realtor**

HOME OCCUPATION MINOR – Home Occupations Minor is a business, profession, occupation or trade conducted for gain or support entirely within a residential building, or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. The Home Occupations Minor shall be owned and operated by the occupant of their residential structure and only by the person or persons maintaining their primary residence in said dwelling unit. For purposes of this section, primary residence is defined as the location of an individual's residence for more than six (6) months of the year. Home Occupations Minor should not involve daily customer traffic to and from the property. The following types of businesses shall not be considered to be Home Occupations Minor:

1. **Motor vehicle repair;**
2. **Motor vehicle, boat and manufactured home sales and rentals;**
3. **Fuel outlets (including gas stations and mini-marts);**
4. **Scrap and salvage material storage and sales (including junkyards);**
5. **Laundries and dry-cleaning establishments;**
6. **Recreation, entertainment, or amusement enterprises;**
7. **Restaurants and tearooms;**
8. **Tourist homes and bed and breakfast establishments;**
9. **Biological or medical testing laboratories, clinics, hospitals and convalescent homes;**
10. **Funeral homes;**
11. **Kennels, stables, animal hospitals and veterinarian offices;**

12. Building supply and farm equipment stores.

Examples of Home Occupations Minor:

- 1. Computer Design**
- 2. Music Arrangement**
- 3. Transcription of Medical Records**
- 4. Computer/Telephone Sales**

HOME PROFESSIONAL OCCUPATION - The office of a member of a licensed profession when conducted within a dwelling or a building accessory thereto. Such occupations shall include, but not limited to, those of doctors, lawyers, architects, engineers, **realtors, accountants, hairstylists**, ministers and other licensed professionals.

~~JUNK YARD—A lot, land or structure, or part thereof, where junk waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including: automobile or other vehicle or machinery, wrecking or dismantling yards; house wrecking yards; used lumber yards; places or yards for storage of salvaged house wrecking and structural steel materials and equipment; or where an unregistered motor vehicle is held outside of a completely enclosed building, whether for the purpose of resale or sale of used parts therefrom, for the purpose of reclaiming for use some or all the materials therein, or for the purpose of storage or disposing of the same for any other purpose. The term junkyard shall not include pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing, or for processing of used, discarded or salvaged materials as part of manufacturing operations.~~

Exceptions:

- ~~1) New, and/or used motor vehicles, which are operable, qualify for a current New York State Motor Vehicle inspection sticker under Article 5 of the New York Motor Vehicle and Traffic Law, and are offered for sale to the public, may be stored on premises on which new or used car sales may be conducted in accordance with the provisions of these regulations.~~
- ~~2) The storage of vehicles subject to seasonal use such as travel trailers and snowmobiles even though such vehicles may be unlicensed during the part of the year they are not in use.~~
- ~~3) The storage of agriculture equipment, machinery and vehicles in an~~

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~~Agricultural District which are being used in farm operation.~~ **LL No. 1/2007**

JUNK – Wastepaper and other waste or discarded materials or materials being stored for reuse or recycling including, but not limited to, iron, steel, brass, copper, tin, lead or other base metals, cordage, ropes, rags, fibers or fabrics, rubber, bottles or glass, bones, machinery equipment, farm machinery, motor vehicles and parts, whether dismantled or not, salvage materials and wood products, which might be prepared to be used again in the same or alternate form or for the purpose of reclaiming for use some or all of the materials therein, or for the purpose of disposing of the same or for any other purpose, but junk shall not include materials or objects held and used in a manufacturing process. Exception: Machinery equipment and farm machinery, as included above, does not apply to farm operations having more than seven (7) acres of land used as a single operation for the production of the sale of crops, livestock or livestock products with an average gross sales value of ten thousand dollars (\$10,000) or more annually. Said machinery equipment and farm machinery must be consistent with the needs and scope of the farm operation and in condition to be readily available and used as a whole or for parts thereof; i.e. steel, tractor parts, vehicle parts, tires and the like. This exception does not extend to household appliances, garbage, solid waste, hazardous waste, trash, debris or junk in general. **LL No. 1/2007**

JUNKYARD – Includes, but is not limited to, a scrap metal processing yard or facility; a mechanical disassembly yard or facility; or any premises, establishment, place of business or lot, lands or structure, covered or uncovered; whether in connection with another legitimate business or not, which is used for the collecting, storing, keeping, buying, selling, exchanging, dismantling, handling, compacting, baling, shredding, processing or salvaging of junk. **LL No. 1/2007**

JUNKYARD AREA – That portion of any piece of property used in the operation of a junkyard. **LL No. 1/2007**

~~KENNEL - Any premises on which four (4) or more dogs, six (6) months old or older are kept, bred and/or boarded.~~ **A facility that constitutes a business for keeping dogs for hire, or the business of raising dogs for sale, as certified by the Town Clerk and harboring in excess of four (4) dogs that are more than six (6) months old.**

LOADING SPACE, OFF-STREET - Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles. Required off-street loading space is not to be

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included as off-street parking space in the computation of required off-street parking area.

~~LODGING ROOM – A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom.~~

LOT - A parcel of land considered as a unit, devoted to a certain use and occupied, or capable of being occupied, by a building or group of buildings that are united by common interest or use, and the customary accessory uses and open spaces belonging to the same.

LOT AREA - The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street or highway right-of-way shall not be included in calculating lot area.

LOT, CORNER - A parcel of land at the junction of, and fronting on, two (2) or more intersecting streets.

LOT COVERAGE - That percentage of the lot area which is devoted to building area.

LOT FRONTAGE - The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all side of a lot adjacent to streets shall be considered front yards.

LOT LINES - The property lines bounding the lot:

1. Lot Line, Front: The line separating the lot from the street right-of-way.
2. Lot Line, Rear: The lot line opposite and most distant from the front lot line, except for corner lots wherein it shall be the lot line behind the principal structure.
3. Lot Line, Side: Any lot line other than a front or rear lot line.

LOT OF RECORD - A lot which is part of an approved subdivision recorded in the Office of the County Clerk or a lot described by metes and bounds and the description of which has been so recorded.

LOT WIDTH - The distance between the side lot lines measured parallel to the street line at the front building line.

LOT, ZONING - A parcel of land occupied, or to be occupied, by a principal use

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or uses, together with permitted accessory uses, yards and open spaces, having frontage on an officially accepted street and having not less than the minimum area required by these regulations for a lot in the zoning district within which said parcel of land is located. A lot of record may or may not be a "zoning lot."

MASTER PLAN – This term is used synonymously to refer to the comprehensive plan; the official community written plan for the future.

~~MOBILE MANUFACTURED HOME~~ See DWELLING, MOBILE MANUFACTURED HOME.

MOBILE MANUFACTURED HOME LOT - A parcel of land within a mobile **manufactured** home park reserved for placement of a mobile **manufactured** home, including accessory buildings, for the exclusive use of its occupants.

MOBILE MANUFACTURED HOME PARK - A parcel of land under single ownership on which two (2) or more mobile **manufactured** homes are occupied as residences or which is planned and improved for the placement of two (2) or more mobile **manufactured** homes for nontransient residential use, or for the sale or rental of two (2) or more mobile **manufactured** home lots. **Manufactured Home Park lots can be leased for the purpose of a tenant placing their own manufactured home or leased as a lot with a manufactured home already in place.**

MOBILE MANUFACTURED HOME STAND - That part of a mobile **manufactured** home lot which has been reserved for the placement of a mobile **manufactured** home. The mobile **manufactured** home stand is derived from the area of a mobile **manufactured** lot which remains after all setbacks are met

MOBILE MANUFACTURED HOME SUBDIVISION - A parcel of land under single ownership in which a single lot or lots are developed and eventually sold by the landowner to persons for the placement of a mobile **manufactured** home.

METEOROLOGICAL TESTING TOWER – A usually temporary, but sometimes permanent, tower commonly referred to as a "MET" tower, utilized for the gathering of information. **LL No. 1/2007**

MOTEL/ADULT – *A motel which is open to the public generally but excludes minors by reason of age or which makes available to its patrons in their rooms films, slide shows or videotapes which due to content depicting any specified sexual activities or specified anatomical areas as defined in this section, if presented in a public movie theater, would be open to the public generally but exclude any minor by reason of age.*

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MOTEL - A building or buildings containing sleeping units for transient guests and providing accessory off-street parking facilities; and which may include restaurant facilities, and a dwelling unit for a bona fide caretaker or operator. The term motel includes: hotels, auto courts, tourist courts, motor lodges and similar terms. Each sleeping unit shall contain not less than two hundred forty (240) square feet of living space.

MOTION PICTURE THEATER/ADULT – A commercial theater presenting to an audience, of one (1) or more persons, films, tapes, videotapes, slides, DVD's, computer generated images, or computer programs depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by a person or persons therein. The definition shall also include commercial establishments offering private visual presentations of such films, tapes, videotapes, slides, DVD's or computer generate images, which are open to the public generally but exclude any minor by reason of age.

MOTOR VEHICLE SERVICE STATION - Any building, structure or land used to disperse, sell or offer automotive fuels, oils or accessories, including lubrication, washing, polishing or cleaning and the replacement or installation of minor parts and accessories to passenger automobiles or trucks not exceeding one and one-half (1½) tons rated capacity, but not including any major mechanical repair, rebuilding or reconditioning of engines, motor vehicles or trailers or collision service, body repair, frame straightening, painting, undercoating, vehicle steam cleaning or upholstering.

NON-CONFORMING BUILDING OR STRUCTURE - Any lawful building or structure existing at the date of enactment of this Law which in its design or location upon a lot does not conform to the regulations of this Law for the district in which it is located.

NON-CONFORMING LOT - A lot of record existing at the date of the enactment of this Law which does not have the minimum width, depth or area for the district in which it is located.

NON-CONFORMING USE - Any use of land, buildings or structures lawfully existing on the date of enactment of this Law which does not conform to the use regulations of the district in which it is located.

NOT-FOR-PROFIT – An incorporated organization whose objective is to support or engage in activities of public or private interest without any commercial or monetary profit for its shareholders and/or trustees.

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PARKING SPACE, OFF-STREET - A space adequate for parking an automobile and having an area of not less than two hundred (200) square feet per vehicle, exclusive of passageways and driveways appurtenant thereto. Such space shall be located on the lot it is accessory to and shall have direct access to a street or public way.

PEEP SHOW – An establishment which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is open to the public generally but would exclude any minor by reason of age.

PONDS - Any man-made body of water which has a capability of more than two (2) feet in depth resulting from excavations, dams, dikes, et cetera. Ponds on properties of less than ten (10) acres shall be defined as swimming pools.

PRELIMINARY SITE PLAN – A rough plan that will allow the Planning Board to advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. **LL No. 1/2007**

PRIMARY ZONE DISTRICT - A zoning district regulating the use of land exclusive of any overlay restrictions or regulations.

PRINCIPAL BUILDING - A building in which is conducted the main or principal use of the lot on which said building is located.

PRINCIPAL USE - The main or primary purpose for which a building, structure or lot is to be used.

PUBLIC BUILDING - The words "public buildings and grounds," as used in this Law are intended to designate any one or more of the following uses, including grounds and accessory buildings necessary for their use:

1. Churches, places of worship, parish houses and convents.
2. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
3. Non-profit nursery schools, elementary school, secondary school, colleges or universities having a curriculum approved by the Board of Regents of the State of New York.
4. Golf courses and country clubs when occupying not less than fifty (50)

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acres, not including, however, clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft.

5. Public libraries and museums.
6. Non-profit fire, ambulance and public safety buildings.
7. Proprietary or non-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged or residences for adults as the same are defined under the Public Health Law or the Social Services Law of the State of New York provided that they are duly licensed by the State of New York.
8. Non-profit membership cooperations established for cultural, social or recreational purposes.
9. Non-profit day care centers approved by the New York State Department of Social Services.

RECREATIONAL VEHICLE - A vehicle type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own **motive mode** of power or is mounted on or drawn by another vehicle. The basic entities are:

1. Travel Trailer - A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle, ~~and of a body width of no more than eight (8) feet and a body length of no more than thirty eight (38) feet when factory equipped for the road.~~
2. Camp Trailer - A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.
3. Truck Camper - A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck. Truck campers are of two (2) basic types:
 - a. Slide-in Camper - A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.
 - b. Chassis-Mount Camper - A portable unit designed to be affixed to a truck chassis.

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4. Motorhome - A vehicular unit built on a self-propelled motor vehicle chassis.

RESERVOIR SPACE - Any temporary storage space for vehicle waiting for service or admission. Such space shall be in addition to drives, aisles or parking space required by this Law. One (1) reservoir space shall be twenty (20) feet long and eight (8) feet wide.

RESTAURANT - Any establishment, however designed, at which food is sold for consumption on the premises to patrons seated within an enclosed building and where patrons seated within an enclosed building and where the taking of food and drink from said building is incidental. However, a snack bar or refreshment stand at a public, semi-public or community swimming pool, playground, playfield or park operated by the agency or groups or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RESTAURANT, DRIVE-IN - An establishment where food, soft drinks, ice cream and similar confections are sold for principal consumption outside the confines of the principal building or in automobiles, regardless of whether or not seats are provided for patrons.

RIGHT-OF-WAY - The line determining the street or highway limit of public ownership.

ROADSIDE STAND - Retail outlets, with all related structures, for the sale of farm products.

ROOMING HOUSE - A dwelling other than a hotel, or motel or lodging house, where more than two (2) persons are housed or lodged for hire with or without meals.

SETBACK - The horizontal distance between the street line, rear or side lines of the lot and the front, rear or side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the building lines. Setbacks from street lines to building lines are defined as "front setbacks." Setbacks from side lot lines are "side setbacks." Setbacks from rear lot lines are "rear setbacks."

SHADOW FLICKER – The alternating pattern of sun and shade caused by wind tower blades casting a moving shadow. **LL No. 1/2007**

SHOPPING CENTER - Two (2) or more commercial buildings located on a single

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lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.

SIGN - Any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device trademark or other representation used as, or in the nature of, an announcement, advertisement, direction or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise or industry, which is located upon any land, or on any building, provided, however, that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one (1) square foot in an area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
2. Flags and insignia of any government except when displayed in connection with commercial promotion.
3. Legal notices, identification, informational or directional signs erected or required by governmental bodies.
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
5. Sign directing and guiding traffic and parking on private property, but bearing no advertising matter.
6. Temporary signs announcing a campaign, drive or event of a governmental, political, civic, philanthropic, educational or religious nature.
7. Signs located within the windows or doors of commercial enterprises provided that such signs occupy less than fifteen (15) percent of the total area of such windows and/or doors.

SIGNS, ADVERTISING - Any sign which directs attention to a business, principal commodity, service or entertainment conducted, sold or offered, elsewhere than upon the premises where the sign is located and only incidentally on the premises if at all.

SIGN AREA - The area of a sign consisting of the entire surface of any regular geometric form or combinations of regular geometric forms, comprising all of the

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display area of the sign and including all of the elements of the matter displayed, but excluding supporting or structural members not bearing advertising matter.

SIGN, BILLBOARD (COMMERCIAL ADVERTISING) - An outdoor advertising sign, structure or symbol erected and maintained by an individual or corporation engaged in the sale or rental for profit of space thereon; having more than one hundred (100) square feet of display surface and which is either erected on the ground or attached to or supported by a building or structure.

SIGN, BUSINESS - An accessory sign which directs attention to a business, profession or industry conducted upon the premises on which the sign is located, or to a primary product, commodity or service sold by such business, profession or industry.

SIGN, DIRECTIONAL - An advertising sign or device intended to direct or point toward a place or business, or one which points out the way to either an unfamiliar or unknown place that obviously could not be easily located without such sign or device.

SIGN, GROUND - A sign supported by a pole, uprights or braces placed in or on the ground.

SIGN, ILLUMINATED - Any sign which has characters, letters, figures, designs or outline illuminated by electrical lights, neon or luminescent tubing.

SIGN, PORTABLE - Any sign which is not securely affixed to a structure or the ground and which may readily be moved. Portable signs may or may not have wheels.

SIGN, PROJECTING - Any sign which is attached to a building or other structure beyond the surface or that portion of the building or structure to which the sign is attached, and not parallel to the face of the building.

SIGN, TEMPORARY - Any sign, banner or other advertising device constructed of temporary material, with or without structural frames, intended for a limited period of display.

~~SITE PLAN - A plan, to scale, showing uses and structures proposed for a parcel of land, including lot lines, streets existing and proposed buildings and structures, topography, rights of way, parking areas, open space, and other information deemed necessary by the Planning Board.~~

SITE PLAN - The rendering, drawing, or plan prepared to specifications by a

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licensed professional engineer and containing necessary elements, as set forth in this Zoning Law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan. **LL No. 1/2007**

SITE PLAN REVIEW – The review of a rendering, drawing, or plan showing the arrangement, layout and design of the proposed single parcel of land shown on said plan. **LL No. 1/2007**

SPECIAL USE PERMIT – The term special use permit shall mean an authorization of particular land use which is permitted in a zoning ordinance **Law**, subject to requirements imposed by such Zoning Law to assure that the proposed use is in harmony with such Zoning ordinance **Law** and will not adversely affect the neighborhood if such requirements are met. **LL No. 1/2007**

SPECIFIED ANATOMICAL AREAS – *Human genitals, public regions, buttocks or female breasts below a point immediately above the top of the areola, including adhesive-backed or glued material as the sole covering of the nipple or nipple and areola, unless completely and opaquely covered. Male genitals in a discernibly turgid state, even if completely or opaquely covered.*

SPECIFIED SEXUAL ACTIVITIES – *Fondling or touching of the genitals, public areas or buttocks of the human male or female or the breasts of the female, whether clothed or unclothed, alone or between members of the same or opposite sex, or between humans or animals, in an act of apparent sexual stimulation or gratification. Any act of human masturbation, sexual intercourse or sodomy. This definition also includes any exhibition or depiction of human genitals in a state of sexual stimulation or arousal.*

STABLE - A building in which any horses are kept for remuneration, hire or sale.

STORY - That portion of a building included between the surface of the floor and the ceiling next above it, having a vertical distance of at least seven (7) feet, six (6) inches along the studs forming each of the exterior walls. Each story above the first story must have an area equal to at least two-thirds (2/3) that of the first story. The first story is the lowest which is seventy-five (75) percent or more above the average level of the ground adjacent to said building.

STORY, HALF - That portion of a building next under a gable hip or gambrel roof having a vertical distance between the floor and horizontal ceiling of at least seven (7) feet, six (6) inches, except that for habitable space under a sloping roof the minimum height above at least fifty (50) percent of such floor area shall be seven (7) feet, six (6) inches, and the area where the height is less than five (5)

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feet shall not be considered in computing required floor area.

STREET - A public or private thoroughfare which affords the principal means of access to abutting properties.

STREET GRADE - The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the "street grade."

STREET LINE - The right-of-way line of a street; the front lot line; the line separating a lot from a street.

STRUCTURE - Anything constructed or erected which requires temporary or permanent support or attachment to the ground, beneath the ground or to something having permanent location on the ground, including gasoline and oil tanks, buildings, ~~mobile~~ **manufactured** homes, fences and billboards.

SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction, alteration, modification of a building, the cost of which equals or exceeds fifty (50) percent of the market value of the building either:

1. before the improvement or repair is started; or,
2. if the building has been damaged and is being restored before the damage occurred.

The ~~Building Inspector~~ **Zoning Officer** shall determine the value of the improvements to be made based upon the square footage of building area added or improved. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

1. any project for improvement of a building to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or,
2. any alteration of a building listed on the National Register of Historic Places or a State Inventory of Historic Places.

SWIMMING POOL - Any body of water or receptacle for water which has a capability of a depth of more than two (2) feet at any point, used or intended to

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be used for swimming, bathing or wading and installed or constructed above or below ground.

TEMPORARY USES - An activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of this Law. Examples of such uses are structures incidental to new construction which shall be removed after the completion of the construction work.

TOTAL HEIGHT – The vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point. **LL No. 1/2007**

UNIFORM CODE - The New York State Uniform Fire Prevention and Building Code.

~~USE, SPECIAL PERMIT – A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a zoning district as a special permit use only if special provision for such special permit use is made in this Law.~~

~~VARIANCE – A variance is a relaxation of the terms of the Zoning Law where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Law would result in unnecessary and undue hardship.~~

VARIANCE, AREA – The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulation.

VARIANCE, USE – The authorization by the Zoning Board of Appeals for the use of land for purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VIDEO STORE/ADULT – *An establishment having, as a substantial or significant portion of its stock-in-trade, films, videotapes, DVD's, computer generate images or computer programs for sale, rent or on-premises viewing, any of which contain specified sexual activities or specified anatomical areas as defined in this section and which are open to the public generally but exclude any minor by reason of age.*

WASTE MANAGEMENT LAGOON – A waste treatment impoundment made by

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constructing an embankment and/or excavating a pit or dugout to biologically treat organic wastes generated by agricultural production or processing in which two (2) major types of bacteria decompose organic matter into gases, liquids and sludge. **LL No. 1/2007**

WASTE STORAGE TANKS (above or below ground) - Same principle as the anaerobic earthen pond, but utilizing a metal or concrete tank for storage (includes pits underneath a confinement area).

WASTE TREATMENT LAGOON - An impoundment made by excavations or earthfill for biological treatment of animal or other wastes. Lagoons can be aerobic, anaerobic, or facultative, depending on their design. Basically, a lagoon is a VERY large pond with no outlet which is ~~never~~ seldom or infrequently emptied or spread. This “pond” may support various forms of vegetation and animal life.

WIND ENERGY CONVERSION DEVICE - The siting of a mechanical device such as a wind charger, windmill or wind turbine designed and used to convert wind energy into a form of energy for commercial sale. The net metering of the output from a wind charger, windmill or wind turbine pursuant to a tariff filed with the New York State Public Service Commission shall not be considered a Wind Energy Conversion Facility and is not subject to regulation by this local Law. LL No. 1/2007

WIND ENERGY CONVERSION FACILITY - The siting of one (1) or more mechanical devices such as a wind charger, windmill or wind turbine designed and used to convert wind energy into a form of energy for commercial sale. The net metering of the output from a wind charger, windmill or wind turbine pursuant to a tariff filed with the New York State Public Service Commission shall not be considered a Wind Energy Conversion Facility and is not subject to regulation by this local Law. LL No. 1/2007

WIND ENERGY DEVICE – A Wind Energy Device of less than 20 kW in total nameplate generating capacity and does not exceed one hundred sixty-five (165) feet in total height. LL No. 1/2007

WIND ENERGY TOWER – The monopole, freestanding, or guyed structure that supports a wind turbine generator. LL No. 1/2007

~~WINDMILL—An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill. LL No. 1/2007~~

YARD - A required open space unoccupied and unobstructed by a structure or

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portion of a structure, except as may be provided by this Law and situated between the principal building or group of buildings and the nearest lot line.

YARD, FRONT - A yard extending between the side lot lines across the front of a lot adjoining a street; situated between the street line and the front building line.

YARD, REAR - A yard extending between the side lot lines situated between the rear line of the building and the rear lot line. In the case of through lots there will be no rear yards, but only front and side yards.

YARD, SIDE - A yard extending between the side building line and the nearest side lot line; situated between the front and rear yards.

ZONING PERMIT - A permit issued by the Zoning Officer, stating that the purpose for which a building or land area is to be used is in conformance with the uses permitted and all other requirements of this Law.