

## ARTICLE 2

### DEFINITIONS

#### Section 2.1 Rules

The following rules shall apply to interpreting the text of this Law:

- A. Words used in the present tense shall include the future.
- B. Words used in the singular shall include the plural, and words used in the plural shall include the singular.
- C. Words used in the masculine form shall include the feminine.
- D. The words “shall” and “should” are mandatory. The word “may” is permissive.
- E. The word “lot” shall include the words “plot,” “piece,” and “parcel.”
- F. The word “person” shall include an individual, firm, trust, partnership, association, or corporation.
- G. The phrase “used for” shall include the phrases “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”
- H. The phrases “to erect,” “to construct,” and “to build” a building have the same meaning and include the excavation for a building foundation and the relocation of a building from one location to another.

#### Section 2.2 Definitions

The following words and terms, wherever they occur in this Law, shall be interpreted as herein defined. Words used in this Law, but not defined herein, shall have the meaning as defined in any other local law, ordinance, or code adopted by the Town, or in common usage, if they are not otherwise defined in town law.

**Access:** The provision of vehicular and/or pedestrian ingress and egress to lots, structures or facilities.

**Accessory Apartment:** A secondary dwelling unit established in conjunction with and clearly subordinate to a principal, detached single-family dwelling unit. The accessory apartment may be located in the same structure as the principal dwelling unit or in a detached building that is located on the same lot as the principal dwelling unit.

**Accessory Building:** A building located on the same lot (or on a contiguous lot under the same ownership) as the principal building and which is (1) clearly incidental to, and customarily found in connection with such principal building or use; and (2) is operated and maintained for the benefit of convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use. Not including storage buildings or other buildings as otherwise defined herein.

**Accessory Use:** A structure or use that (1) is subordinate in area, extent, and purpose to the principal use and clearly incidental to and customarily found in connection with the principal building; and (2) contributes to the comfort, convenience, or necessity of the principal use; and (3) is located on the same lot as the principal use or on a contiguous lot under the same ownership.

**Adult Arcade:** A business enterprise that offers or maintains one or more adult viewing booths.

**Adult Entertainment Cabaret/Theater:** A public or private nightclub, bar, restaurant, theater or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers, motion pictures, films, video tapes or slide shows, and which establishment excludes any minor by reason of age.

**Adult Massage Establishment:** Any establishment having a fixed place of business where massages are administered for pay, including, but not limited to massage parlors, sauna baths and steam baths or similar use that excludes any minor by reason of age. This definition shall not be construed to include a hospital, nursing home, medical clinic, or office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or duly licensed massage therapist.

This definition shall not be construed to include barber shops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racket ball courts, or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

**Adult Model Studio:** Any establishment, where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by any person other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirements, established by the New York State Education Law for the issuance of diplomas and is in fact authorized to issue and confer diplomas.

**Adult Motel/Hotel:** A motel or hotel which excludes minors by reason of age, and/or which rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

**Adult Movie Theater:** A business enterprise which regularly features or offers to the public the presentation of motion-pictures, films, movies, DVDs, and/or sound recordings which are presented to a common audience of more than five persons in an enclosed common area or are presented in a common area of more than 150 square feet, and which excludes any minor by reason of age.

**Adult Painting Studio:** An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the human body and which excludes any minor by reason of age.

**Adult Retail Store:** A business establishment that offers for sale sexually oriented materials, toys and/or novelties and which excludes any minor by reason of age.

For purposes of this definition, *sexually oriented toys and novelties* are defined as instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs, except medical devices approved by the US Food and Drug Administration.

For purposed of this definition, *sexually oriented materials* are defined as toys, novelties, books, pamphlets, magazines and other periodicals, sculptures, photographs, pictures, slides, video tapes, films, CDs, CD-ROMs, DVDs, magnetic and digital media, electronic reproductions, pictorial representations, sound recordings and similar materials that have sexually explicit content.

Exception: A business enterprise which devotes less than ten percent of the stock-in-trade and/or less than ten percent of its sales and display floor area to sexually oriented materials, toys and/or novelties and which keeps all sexually oriented toys, novelties, and materials separated from other sales and display areas by an opaque wall at least eight feet in height with a management-controlled system of access to ensure that only persons over the age of 18 years are allowed to enter the area shall not be considered an Adult Retail Store. Any such excluded business shall not advertise sexually oriented materials as part of its exterior signage.

**Adult Use:** Any use or establishment constituting an adult entertainment cabaret/theater, Adult Arcade, adult massage establishment, adult motel or hotel, Adult Movie Theater, Adult Retail Store, body painting studio, or adult model studio as defined herein, or similar use that excludes any minor by reason of age or content.

**Adult Viewing Booth:** Any booth or cubical that is designed or used to hold or seat patrons and that is used for presenting sexually explicit live shows, motion pictures or for viewing publications by any photographic, electronic, magnetic, digital or other means or media, for observation by five or fewer persons at one time and that excludes any minor by reason of age. An adult viewing booth shall not mean an adult entertainment cabaret, adult movie theater, or a room or enclosure that contains more than 150 square feet.

**Agriculture:** The use of land for the growing of plants and crops in the open, including any necessary accessory structures, but not including the processing of the agricultural product. Types of agriculture include, but are not necessarily limited to, horticulture, floriculture, viticulture, production of maple syrup and maple sugar, tree farms, and mushroom farms. The sorting, cleaning, packing, and storing of crops grown on the site, preparatory to sale and/or shipment in their natural form, shall be considered to be an allowable accessory use to an agricultural use.

**Agricultural Processing:** A building, facility, area, open or enclosed, or any location for the refinement, treatment, or conversion of agricultural products, commercially or privately operated, where physical, chemical or similar change of an agricultural product occurs. Examples of agricultural processing include, but are not limited to, fruit dehydrators, cold storage houses, hulling operations, and canning, and include all uses customarily incidental thereto. Agricultural processing shall not include manufacturing of secondary products using agricultural products, such as commercial kitchens, bakeries, breweries, woodworking, sawmills, and wood processing plants. “Agricultural processing” shall not include “commercial slaughterhouses.”

**Agricultural Storage Structure:** An accessory storage or maintenance building used in the operation of an agricultural enterprise.

**Airport, Commercial:** Any area of land or water designed and set aside for the landing and take-off of commercial and/or private aircraft for hire. A commercial airport may include all necessary facilities for the housing, operation, and maintenance of aircraft.

**Airport, Private:** Any area of land or water designed and set aside for the landing and take-off of private aircraft, without compensation. A private airport may include all necessary facilities for the housing, operation, and maintenance of aircraft.

**Alley:** A public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street or road.

**Alteration:** Other than incidental repairs, any change, addition, or modification to a building or structure, including, but not limited to, (1) rearrangement in the structural members, such as bearing walls, columns, beams, or girders; (2) any change in size or number of windows and/or doors; (3) stairways or exit facilities; (4) electrical or plumbing systems; (5) or an enlargement, whether by extending on a side or by increasing in height; (6) or the moving of the building or structure from one location or position to another.

**Animal Boarding:** A place where domesticated animals are housed temporarily for a fee.

**Animal Hospital:** A building or part thereof used by veterinarians primarily for the purposes of consultation, diagnosis, and office treatment of household pets or livestock; but shall not include long-term boarding facilities for animals.

**Animal Rehab:** A facility or property dedicated to caring for injured, ill, and orphaned animals, typically wild animals, with the goal of returning each into its natural habitat.

**Appeal:** An application to the Zoning Board of Appeals to reverse, wholly or partly, an order, requirement, determination, or decision of the Zoning Official, who is charged with the enforcement of this Law.

**Applicant:** The owner of land who applies for a zoning permit or any other approval required under this Code, or his/her authorized representative.

**Arts and Crafts Studio:** A commercial use where handmade crafts and arts are produced and/or sold. An arts and crafts studio includes occupations such as painting, sculpting, pottery, weaving, glass-blowing, jewelry-making, woodworking, furniture making, candle-making, and similar crafts and arts, where the products are individually made by the artisan-owner.

**Art School:** An educational facility, usually for profit, where instruction in the arts is provided for adults and/or children. Such arts include, but are not limited to, dance, painting, sculpture, and vocal and instrumental music.

**Athletic Club:** A commercial facility where members and/or non-members use equipment or space for the purpose of physical exercise. An “athletic club” includes a “racquet club,” “health club” or a “commercial gymnasium.”

**Attached Building:** Units connected on one or more sides to an adjacent unit or units by a common party wall (or roof) with a separate exterior entrance for all unit(s). This shall apply to commercial as well as residential units.

**Automobile Body Shop:** A building used for the repairing or painting of the exterior and/or undercarriage of motor vehicle bodies, in conjunction with which there may be towing service and motor vehicle rentals for customers while the motor vehicle is under repair.

**Automobile Repair Shop:** An establishment where inspection of, repairs to, and servicing, greasing, and adjusting of automobiles, trucks, and other motor vehicles may be performed. The sale of motor vehicle fuels and lubricants may be conducted as an accessory use. Towing of disabled vehicles may also be conducted. All storage of accessories and repairing and servicing shall be conducted within a wholly enclosed building or buildings.

**Automobile Sales Establishment:** A lot on which occurs the sale and/or leasing of three or more new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, motorcycles, or other similar motorized transportation vehicles, at any one time, or more than ten total in any twelve-month period. An automobile sales establishment may have, on-site, an inventory of the vehicles for sale or lease. An automobile sales establishment may provide onsite accessory facilities for the repair and service of the vehicles, parts storage areas, and offices.

**Base Flood:** The stream discharge or flood having a one percent chance of being equaled or exceeded in any given year. Also known as a 100-year flood.

**Bed and Breakfast Establishment:** A specialized form of boarding house in which one to five rooms are available for overnight accommodations to guests for a fee, and where breakfast is provided to the guests only.

**Boarding House:** A building, other than a hotel, motel, or inn where, for direct or indirect compensation and by prearrangement for definite periods, meals and rooms are provided.

**Buffer Yard:** An area of land containing materials, such as berms, fencing and landscaping, used to provide sight and/or sound screening from adjoining properties and rights-of-way.

**Building:** Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel.

**Building, Attached:** See “Attached Building.”

**Building, Detached:** Any building or structure separated from another building.

**Building Height:** See “Height.”

**Building Integrated Photovoltaic System:** A combination of photovoltaic building components integrated into any building envelope system such as vertical facades, including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.

**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 on any side. In case of a cantilevered section of a building projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

**Building Official:** The official authorized by the Town Board to enforce the provisions of the New York State Building Code.

**Building, Principal:** A building in which is conducted the primary use of the lot on which the building is located.

**Building Supply Store:** A retail establishment that sells a diverse range of hardware, lumber, tools, and related materials generally used in the maintenance, repair, or construction of buildings. A building supply store may also sell appliances, lighting fixtures, plumbing fixtures, and similar products for the interior of buildings. A building supply store may also sell lawn and garden supplies.

**Bulk Fuel Storage:** The storage of petroleum products, natural gas, or propane in above ground or below ground storage containers designed for wholesale distribution. No refining or processing of bulk fuel products shall be permitted on-site. A gasoline service station shall not be construed to be “bulk fuel storage.”

**Campground:** (1) An area of land or water, used for a range of overnight camping experiences, on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other temporary living accommodations, including accessory facilities which support the use, such as administration

offices and laundry facilities, but not including the use of manufactured homes on a year round basis; or (2) Any area that is occupied or intended or designed for occupancy by transients using recreational vehicles, motor homes or vacation trailers, for temporary, recreational overnight lodging; or (3) Any land, including any building thereon, used for any assembly of persons for what are commonly known as “day camp” purposes, including recreation, arts and crafts, sports, and incidental food service. Types of camps include YMCA campgrounds and summer camp programs.

**Camping Cabin – Park Model Trailer:** A transportable, factory-built unit manufactured to the standards of the Recreational Vehicle Industry Association (RVIA), not designed for continuous over the road use, designed for seasonal use with utilities and sanitary sewer connections on site, not intended for year-round use.

**Car Wash:** A commercial establishment containing facilities for washing and/or waxing private automobiles, recreational vehicles, and similar motor vehicles. Coin-operated facilities open on a self-service basis shall be construed to be car washes.

**Cargo Terminal:** A transportation facility in which quantities of goods or container cargo are stored without undergoing any manufacturing processes, transferred to other carriers, or stored outdoors in order to transfer them to other locations.

**Cell:** The geographical area served by a BTS (base transceiver station).

**Cemetery:** Land that is set apart for or used as a place for the interment of the dead.

**Civic Facility:** Buildings, structures, and uses owned and/or operated by a governmental agency, fire district, fire company, or public library.

**Certificate of Occupancy:** A permit issued by the Building Official upon completion of construction, alteration or change in occupancy or use of a building, which certifies that provisions specified in the building permit application and the New York State building code have been met, that a building or development has been inspected, and that it is eligible to be occupied.

**Certificate of Zoning Compliance:** A certificate issued by the Zoning Official that certifies that conditions specified in this Law have been met, that the parcel is properly zoned for the use that is proposed, and that the intended use is allowable. Said certificate shall acknowledge any adjustments to the requirements of this Law granted by the Zoning Board of Appeals or any approvals and conditions of approval granted by the Planning Board.

**Church:** See "House of Worship."

**Clinic, Medical and Dental:** A building or structure where two or more members of the medical profession, physicians, dentists, chiropractors, osteopaths, and/or occupational or physical therapists, provide diagnosis and treatment to the general public without overnight

accommodation. A medical clinic may include such uses as reception areas, offices, consultation rooms, x-ray facilities, minor operating rooms, and/or a pharmacy.

**College:** A post-secondary institution authorized by the state to award associate, baccalaureate, master, or doctoral degrees.

**Commercial Recreation:** See “Recreation, Commercial.”

**Commercial Use:** A business use or activity, at a scale greater than a home based business, involving retail marketing of goods and services. Examples of commercial establishments include offices and retail shops. See also: Service Commercial Establishment, Support Commercial Facilities, and Retail Establishment.

**Common Open Space:** See “Open Space, Common.”

**Comprehensive Plan:** A comprehensive plan for development of the Town, adopted by the Town Board pursuant to State law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

**Conditional Use:** See “Special Use.”

**Construction, Start of:** The initiation, excluding planning and design, of any phase of a project, including any physical alteration of the property and/or land preparation, such as clearing, grading, and filling; installation of roads, streets, and/or walkways; excavation for a basement, footings, piers, or foundations, or the erection of temporary forms. “Start of Construction” also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. “Start of Construction” also applies to “substantial improvement.”

**Contractor’s Yard:** An establishment of any general contractor or builder where equipment and materials are stored or where a contractor performs shop or assembly work. The contractor’s office may also be located on site.

**Convalescent Home:** See “Nursing Home.”

**Copy Shop:** A retail facility for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes include, but are not limited to, photocopying, blueprint, facsimile sending and receiving, laminating, and offset printing.

**Counsel to the Town:** The attorney admitted to practice in the State of New York and designated by the Town Board to furnish legal assistance for the administration of this Law.

**Cul-de-sac:** A local road with only one outlet and an appropriate terminus for the safe and convenient reversal of traffic movement. See also “Road, Dead-end.”



**Curb Line:** A line coinciding with the highway boundary line which may be 24.75' or 33' as measured from the centerline of the highway, depending on the highway.

**Day Care Center, Child:** An establishment where care is provided for one or more children on a regular basis, for periods of less than 24 hours per day in a place other than the child's own dwelling unit. Programs could include those for children who are under the minimum age to attend public school and/or pre-school, after-school and school-vacation care for school-aged children. Day Care facilities that are regulated by Section 390 of NYS Social Services Law are not included in this definition and are exempt from these regulations.

**Day Care Center, Adult:** A facility providing care for the elderly and/or functionally impaired adults in a protective setting for periods of less than 24 hours per day.

**Department/Variety Store:** A business that is conducted under a single owner's name, wherein a variety of unrelated merchandise is sold directly to the customer.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Digital Display:** A portion of a sign, where the sign content is displayed electronically. A digital display contains a static image, which can be electronically changed.

**Discontinue:** To cease from using land, structures, or any premises for its intended use.

**Driveway:** A private access strip of land that provides vehicular connection to a public or private road or street. For residential uses, a driveway shall serve no more than three single family lots. See also "Road, Private".

**Dry Cleaning and Laundry, Commercial:** A business which launders or dry cleans clothes and other articles, where the articles for cleaning are dropped off at a remote location.

**Duplex:** A structure containing two dwelling units, each of which has direct access to the outside. See also "Dwelling, Two Family."

**Dwelling Unit:** A building or portion thereof that provides complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking, and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel, inn, boarding house, or other such use of a transient nature.

**Dwelling, Attached Single Family:** A dwelling unit that is joined to one or more other dwelling units at one or more sides by a party wall.

**Dwelling Unit, Detached Single Family:** A building that contains one dwelling unit, which is not attached to any other dwelling by any means and which is surrounded by open space and/or yards.

**Dwelling, Multiple Family:** A building that contains three or more dwelling units, which may have one or more common entrances to access the building.

**Dwelling, Single Family:** A building that contains one dwelling unit.

**Dwelling, Two Family:** A building that contains two dwelling units; a duplex.

**Dwelling, Three Family:** A building that contains three dwelling units; a triplex.

**Dwelling, Four Family:** A building that contains four dwelling units; a fourplex.

**Easement:** Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**Electronic Message Display:** A sign with a changing display composed of a series of lights, that is capable of displaying words, symbols, figures, or images and that can be electronically changed by remote or automatic means.

**Environmental Assessment Form (EAF):** A form used in the environmental review process under the State Environmental Quality Review Act (SEQRA) as defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

**Essential Services:** The erection, construction, alteration, installation, or maintenance by public utilities, governmental agencies, or Not-For-Profit organizations, of collection, communication, transmission, low-impact renewable energy generating facilities, distribution, or disposal systems necessary for the furnishing of adequate public services or for public health, safety or general welfare, but not including buildings.

**Farm Stand:** A structure for the display and sale of farm produce.

**Fence:** A structure constructed for reasons of privacy, security, or aesthetics which is located in such a manner as to separate or divide areas. Includes masonry walls and may or may not be sight obscuring or light tight.

**Financial Institution:** The premises of a bank, credit union, savings and loan company, trust company, finance company, mortgage company, investment company, or similar institution.

**Flood Plain:** Any area directly adjoining a river, stream, or water course, or other body of standing water in which a potential flood hazard exists due to inundation or overflow of water, as defined by the Federal Emergency Management Agency (FEMA).

**Floor Area, Gross:** See “Gross Floor Area.”

**Floor Area, Gross Residential (GRFA):** See “Gross Residential Floor Area.”

**Food Processing Establishments:** An industrial use producing or processing foods for human consumption and certain related products. Food processing establishments include commercial bakeries (except bakeries that produce goods only for on-site sales with no wider distribution); bottling of beverages; canning; dairy products processing, including the manufacture of ice cream; preparation of frozen foods, and similar activities.

**Fourplex:** A building containing four dwelling units. See also “Dwelling, Four Family.”

**Fraternal Organization:** A building, or portion thereof, or premises owned and/or operated by a corporation or association for a social, educational, or recreational activity, but not primarily for profit or to render a service which is customarily carried on as a business.

**Frontage:** The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the road right-of-way line. All sides of a lot that abuts a road or street shall be considered frontage. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

**Game Farm:** An area of land set aside for maintenance of wildlife for tourism and/or hunting purposes.

**Garage, Private:** A detached accessory building, or a portion of a main building, used for the storage of motor vehicles for the tenants or occupants of a specified building and not by the general public.

**Garage, Commercial:** A structure that is used for the short term parking of more than four vehicles on a regular basis, which is available to the general public, whether or not a fee is charged.

**Gasoline Service Station:** A retail establishment where motor vehicle fuels and lubricants are sold to individuals. A gasoline service station may have a retail convenience store as an accessory use.

**Golf Course:** An establishment for playing the game of golf and having tees, greens, fairways, and hazards. A golf course may have a clubhouse as an accessory use.

**Grade:** The slope of a road, street, or other public way, specified in percentage terms.

**Grade, Natural:** Elevation of the existing surface of the land prior to commencement of construction of any improvements proposed or any previous site disturbance. Natural grade, when not readily established due to prior modifications in terrain, shall be fixed by reference elevations and slopes at points where the prior disturbance appears to meet the undisturbed

portions of the subject property or the adjacent property's undisturbed grade. The estimated natural grade shall tie into the elevation and slopes of adjoining properties without creating a need for new retaining walls, or abrupt differences in the visual slope and elevation of the land; and not change the direction or flow of run-off water.

**Grade, Finished:** The final elevation of the ground level after development.

**Greenhouse:** A structure for either personal use or commercial business whose principal activity is the growing of plants within an enclosed building. Plants may be stored on site, and may be sold to wholesalers and/or to the general public from a commercial greenhouse. Outside storage and/or display areas of plants and gardening equipment is allowed as an accessory use.

**Gross Floor Area:** The sum of the floor area of all stories in a structure, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall.

**Gross Residential Floor Area (GRFA):** The sum of the floor area of all stories in a residential structure, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. GRFA is used to compute the density for townhouse and other single family attached developments.

**Ground-Mounted Solar Energy System:** A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure, for the primary purpose of producing electricity for onsite consumption.

**Group Care Facility:** A community based residential facility designed to service or support individuals with chronic disability.

**Gymnasium:** A place for physical exercise or sports games.

**Sign, Directional:** An on-premises sign that includes information assisting in the flow of pedestrian or vehicular traffic, such as "enter," "exit," "one-way," "parking ahead," or similar directions.

**Hazardous Waste Facility:** A place intended for the collection, storage, or recycling of solid waste materials classified as hazardous by USEPA standards.

**Height:** The vertical distance, measured from the adjacent ground elevation of the finished or natural grade, whichever is lower, at the lowest point where the natural or finished grade meets the foundation wall to the following points on the building or structure:

- A.** For flat roofs or roofs with a slope of 3:12 or lower, height shall be measured to the highest point on the roof.
- B.** For mansard roofs, height shall be measured to the deck line. For purposes of this definition, the deck line is the point at which the pitch of the roof changes the inflection point.

**C.** For hip, gable, or gambrel roofs where the slope of the roof is higher than 3:12, height shall be measured to a point midway between the highest ridge of the building and the lowest point on the corresponding eave.

**D.** For other roof shapes, such as domed or vaulted shapes, height shall be measured to the highest point of the roof.

In no case shall a mansard roof or the parapet wall of a flat roof extend more than 18" above the deck line or maximum height, whichever is lower.

**Highway, Limited Access:** See "Road System Classification."

**Hillside/Hilltop:** Any elevated space or area characterized by (1) natural scenic beauty or, (2) whose existing openness, natural condition, or present state of use enhances the present or potential value of abutting or surrounding property, or maintains or enhances the conservation of natural or scenic resources. For purposes of this Zoning Law natural resources shall include, but not be limited to, agricultural lands actually used in bona fide agricultural production.

**Historic Resource:** Any historic building, structure, facility, site or district, or prehistoric site that is listed on the State and/or National Registers of Historic Places. Any historic building, structure, facility, site or district, or prehistoric site that has been proposed by the New York Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register of Historic Places. Any locally significant historic resource designated pursuant to Article 5-K of the New York State General Municipal Law.

**Home Occupation:** Any land use activity undertaken for gain (regardless of whether or not a profit is made) within a dwelling unit, or within a structure that is accessory to the dwelling unit and on the same lot, by the resident or residents thereof. A home occupation is an accessory use, and shall be clearly incidental and secondary to the use of the property as a residence.

**Home Retail and Service Trade Establishment:** An accessory use to the residential use of a property, involving retail sales or product servicing, conducted on the premises by the residents thereof, having not more than one paid employee, which is clearly secondary to the use of the building for living purposes and does not change the character of the neighborhood. The use may be conducted in the residence or in an accessory building. Full line grocery stores, whether local or chain are specifically excluded, but specialty grocery products, natural foods, and farm products may be sold. Sales and service of vehicles that require state registration and boats are specifically prohibited. Adult uses, including but not limited to, adult book stores, adult video stores, adult entertainment cabarets, adult theaters, peep shows, massage establishments, adult motels or hotels, body painting studios or adult model studios are specifically excluded from the definition of Home Retail and Service Trade Establishment.

**Hospital:** A health care institution providing patient treatment by specialized staff and equipment, offering inpatient and possibly outpatient services.

**Hotel/Motel/Inn:** A building containing sleeping rooms for the temporary occupancy of guests. Accessory facilities may include a lobby, meeting rooms, recreation facilities, group dining facilities, and/or other facilities or activities customarily associated with hotels or hotel apartments. “Hotel,” “motel,” and “inn” do not include boarding houses.

**House of Worship:** A structure owned or leased by a religious organization, which people regularly attend to participate in or hold religious services, meetings or other related religious activities. A house of worship includes churches, synagogues, temples, and mosques or similar buildings or structures.

**Household Pets:** Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but are not limited to, dogs, cats, rabbits, domestic birds such as parrots and parakeets, domestic mice and rats, and domesticated snakes.

**Hunting Preserve:** An area of land where game is reared or stocked for private hunting purposes; typically for a fee, if not intended solely for personal hunting use.

**Industrial Use:** A business use or activity that involves manufacturing, fabrication, assembly, and/or warehousing.

**Junkyard:** A yard or lot that is used to store junk, such as scrap metal or resalable car parts.

**Keeping of Livestock:** The breeding, raising, or grazing of livestock, including poultry, bees, dairy farming or beef cattle, bison ranches, apiculture, and fish farming. Products derived from the livestock, such as milk or wool, may be stored on-site, but no large scale commercial manufacturing or processing of the product may be allowed. “Keeping of livestock” shall not include “commercial slaughterhouses.” An agricultural slaughterhouse shall be an allowable accessory use.

**Kennel:** Any establishment where household pets, such as dogs and cats, are boarded, trained or bred for profit, or for humanitarian purposes such as an animal rescue facility.

**Landfill:** A place whose intended use is for the disposal of garbage, rubbish, or some type of waste; typically classified as either non-hazardous or hazardous with each having distinctly different characteristics and regulations.

**Large Wind Energy Conversion System:** A Wind Energy Conversion System (WECS) consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity greater than 150 kilowatts and is intended to supply some portion of its produced electrical power for sale to a power grid.

**Large-Scale Solar Energy System:** A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

**Laundromat:** A commercial establishment where laundry machines, using only water, and clothes dryers are made available to the public. A laundromat may also provide a drop-off, pick-up laundry service.

**Library:** A civic facility primarily for the use, but not sale of: books, videos, CDs, and similar materials. A library may have computers and/or meeting rooms available for public use.

**Licensed Professional Engineer:** An engineer licensed to practice in the State of New York.

**Lift Way:** The necessary right-of-way, both surface and air space, for the operation of any tram covered by this Law.

**Livestock:** Poultry, dairy and beef cattle, horses, sheep, goats, llamas, alpacas, bison, or any similar outdoor farm animal, but not including cats, dogs, or other household pets.

**Local Government:** The elected and appointed representatives of the Town of Caneadea, New York.

**Local Road:** See “Road System Classification.”

**Loft:** In a building, a story in which part of the space is open to the floor below. When a loft contains heated, habitable space, it shall be considered to be a half-story for purposes of calculating height.

**Lot:** A parcel of land with frontage on or legal access to a public or private street or road, whether or not occupied by a building or structure, which is in one ownership.

**Lot, Corner:** A lot situated at the intersection of two roads or streets.

**Lot Depth:** The average distance between the front and rear lot lines, measured approximately perpendicular to the front lot line.

**Lot Lines:** The property lines bounding a lot. Where the property lines extend to the centerline of any road right-of-way, for purposes of calculating the minimum lot area and yard requirements of this Law, the lot lines shall be construed to begin at the right-of-way line.

**Lot Line, Front:** The property line dividing a lot from the right-of-way of the road or street.

**Lot Line, Rear:** The property line opposite the front lot line.

**Lot Line, Side:** Any lot line other than a front or rear lot line.

**Lot of Record:** Any lot lawfully existing at the time of adoption of or amendment to this Law.

**Lot, Panhandle:** A polygonal shaped lot with the appearance of a frying pan or flag and staff, where the handle is most often used as the point of access to the lot.

**Lot Width:** The distance between the side lot lines.

**Lumber Milling:** Processing of timber involving milling to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes. May also include the storage of raw timber and processed lumber. May also include air or kiln drying of lumber.

**Luminance:** The level of light emitted from a digital display or electronic display. Luminance is usually measured in nits or candelas per meter squared (cd/m<sup>2</sup>). One nit = one cd/m<sup>2</sup>.

**Machine Shop:** An industrial facility where precision tools, machines, and equipment are fabricated and/or assembled, including tool, die and pattern making. A machine shop may contain equipment such as lathes and milling machines.

**Manufactured Home:** A factory-built home transported to a permanent dwelling site designed to be used as a year-round single-family dwelling, which is manufactured according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974. The term “Manufactured Home” does not include a “Mobile Home” or “Recreational Vehicle.”

**Manufactured Home Park:** A plot or parcel of ground containing thereon two or more manufactured homes. The term “Manufactured Home” does not include a “Mobile Home” or “Recreational Vehicle.”

**Medical Clinic:** See “Clinic, Medical and Dental.”

**Mineral:** Any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this Law, peat and topsoil shall be considered to be minerals.

**Mining:** Extraction of gravel, sand, minerals, peat and/or topsoil for sale or use off-site. The moving of topsoil, sand and/or gravel from one part of a property to another part of the same property in the same ownership shall not be construed to be mining. Site work incidental to another approved land use shall not be construed to be mining. Mining is further defined as Commercial Mining and Incidental Mining:

**A. Commercial Mining:** The extraction of more than 1000 tons or 750 cubic yards of minerals, whichever is less, in any consecutive 12-month period.

**B. Incidental Mining:** The extraction of less than 1000 tons or 750 cubic yards of minerals, whichever is less, in any consecutive 12-month period.

**Mixed Occupancy Building:** A single building containing more than one type of land use, such as, but not limited to, residential, commercial, public, entertainment, or office. Each use contained within a Mixed Occupancy Building must be individually allowable as a permitted or special permitted use in the zoning district in which the building is located.



**Mobile Home:** A transportable, factory-built home built on a single chassis less than or equal to 14 feet wide, designed to be used as a year-round single family dwelling. Mobile Home does not include a “recreational vehicle.”

**Mobile Home Aged:** A mobile home built prior to June 15, 1976, the effective date of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. Mobile Home does not include a “recreational vehicle.”

**Mobile Home Park:** A plot or parcel of ground containing thereon two or more mobile homes.

**Model Home:** A dwelling unit used initially for display purposes as an example of dwelling units available or to be available for sale or rental in a subdivision or other residential development. Model homes shall be located in the subdivision that they advertise. A model home may also incorporate sales or rental offices for the dwellings within the development.

**Modular Home:** Factory-built housing that is certified as meeting the New York State Building Code. A modular home is constructed on-site from components that are substantially made and assembled in a factory and that are delivered to a building site, where they are assembled and installed on a permanent foundation.

**Mortuary:** A building used for human funeral services. Such buildings may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the storage of caskets and other related funeral supplies; and (c) the storage of funeral vehicles. A mortuary shall not include facilities for cremation.

**Movie Theater:** A building or part of a building devoted to showing motion pictures.

**Municipality:** The Town of Caneadea, New York.

**Nameplate:** A sign indicating the name and address of a building or the name of an occupant thereof, and the practice of a permitted occupation therein.

**Non-Conforming Use:** The use of a building, structure, or land which does not conform to current use regulations for the district in which it is situated, but which was in conformity with prior regulations at the time of its establishment, or which was in existence prior to the establishment of use regulations for the district in which it is situated.

**Non-Participating Residence:** Any dwelling for habitation, either seasonally or permanently, by one or more persons that have not entered into any agreement with a wind energy developer to allow for a WECS on or near their property. A residence may be part of a multi-dwelling or multi-use building and shall include buildings such as hotels, motels, dormitories, long term care facilities, schools or other buildings used for educational purposes.

**Nursery, Child:** See “Child Nursery.”

**Nursing Home:** An institution described also as a “rest home,” or “convalescent home,” other than a hospital, in which persons are lodged and furnished with care rather than diagnosis or treatment.

**Office, Professional:** A building or space used by persons such as accountants, architects, artists, dentists, designers, engineers, lawyers, physicians, realtors, teachers, and others who by virtue of training and/or license, are qualified to perform services of a professional nature, and/or where storage of goods and sale of merchandise is minimal and secondary to performance of the service.

**Office, Business:** A room, suite of rooms, or a building in which one or more persons conducts the affairs of a business, profession, service, industry or government, and where storage of goods and sale of merchandise is minimal and secondary to the performance of the service.

**Off-premises Signs:** See “Signs, Off-premises.”

**Open Space:** Land in an essentially undeveloped state that is used for recreation, resource protection, habitat protection, nature preserves, view protection, amenity, and/or buffer yards.

**Open Space, Common:** Facilities and yard areas identified within projects for the use and enjoyment of the residents and maintained and operated by an organization of property holders.

**Open Space, Usable:** An area, including required yards, that is free of buildings, structures, and other substantial improvements, and includes without limitation:

- A.** outdoor swimming pools, swimming pool areas, hard surfaced recreational areas, and other recreational areas that are unenclosed; and/or
- B.** fences, canopies, bath houses, and gazebos; and/or
- C.** driveways that cross the required front or side yard and serve fewer than four parking spaces; and/or
- D.** the ground surface above the underground facilities, provided it otherwise qualifies as usable open space pursuant to this definition; and/or
- E.** sidewalks; and/or
- F.** At grade patios and steps under thirty (30) inches high; and/or
- G.** ponds, streams, wetlands, and naturally vegetated land; and/or
- H.** terraced landscaped features, walls, fences and similar landscaping features.

Usable open space excludes:

- A.** public or private rights-of-way for roads or highways; and b. roofs; and
- B.** open parking areas; and
- C.** parking garages or structures

In all zoning districts, no more than thirty percent of the usable open space can be in excess of 25 percent in slope. In the AG Zoning District, land used for agriculture and/or forestry, excluding buildings, shall be considered to be usable open space.

**Overlay Zoning.** Overlay Zoning is a regulatory tool that creates a special zoning district, placed over an existing base zone(s), which identifies special provisions in addition to those in the underlying base zone. The overlay district can share common boundaries with the base zone or cut across base zone boundaries.

**Overspeed Control:** A mechanism used to limit the speed of blade rotation to below the design limits of the Wind Energy Conversion System (WECS).

**Owner:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or proprietary interest in the land.

**Park:** Any publicly-owned land, or land owned by a non-profit organization, that is used for recreation and/or natural resource or open space preservation.

**Parking Lot:** An area other than a road used for the parking of more than four automobiles.

**Parking Lot, Commercial:** A lot that is used for the short term parking of vehicles that is available to the general public, whether or not a fee is charged.

**Parking Space:** An off-street area available for the parking of one motor vehicle.

**Participating Residence:** Any dwelling for habitation, either seasonally or permanently, by one or more persons that has entered into an agreement with a wind energy developer to allow a WECS on or near their property. A residence may be single-family or may be part of a multi-dwelling or multi-use building and shall include buildings such as hotels, motels, dormitories, long term care facilities, schools or other buildings used for educational purposes.

**Passenger Tramway:** A mechanical device for the primary purpose of transporting passengers by means of chairs or enclosed compartments which are suspended from cables or travel along cables on or above the ground.

**Performing Arts Center:** A building or part of a building devoted to dramatic, musical or live performances, and similar events

**Permanent Wind Measurement Tower:** A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction that is installed to permanently monitor wind conditions for the life of the project.

**Permitted Use:** A use of land which is allowable as-of-right, without first having to obtain a Special Use Permit.

**Personal Service Establishment:** A business establishment where professional or personal services are provided for gain and where the retail sale of goods, wares, merchandise, articles, or things is only accessory to the provision of such services, including but not limited to the following: barber shops, beauty shops, tailor shops, and shoe repair shops.

**Plant Nursery:** Land used for the growing of sod, flowers, bushes, trees, or other gardening, landscaping, or orchard stock for wholesale or retail sale.

**Planned Unit Development (PUD).** A planned unit development is an overlay zoning district that permits land developments on several parcels to be planned as single units and contain both residential dwellings and commercial uses. It is usually available to land owners as a mixed use option to single uses permitted as-of-right by the zoning ordinance.

**Planning Board:** Planning Board of the Town of Caneadea, New York. Planning boards must consist of 5 to 7 members. Planning boards may be delegated reviewing board functions and a variety of advisory functions, including the preparation of the comprehensive plan, drafting zoning provisions, or suggesting site plan and subdivision regulations, in addition to other functions. One important purpose of the planning board's advisory role is to provide an impartial and professional perspective on land use issues based on the long range needs of the community contained in the comprehensive plan or other local policy documents.

**Principle Use:** The main use to which a building or lot is to be used.

**Printing Plant:** An industrial facility involving a process where large scale printing, imprinting, reproducing, and duplication of images occurs, using printing methods including but not limited to offset printing, lithography, and screen process printing. Publishing, binding and engraving may also be conducted.

**Private Viewing Booth:** Any booth or cubical that is designed or used to hold or seat patrons and that is used for presenting live shows, motion pictures or for viewing publications by any photographic, electronic, magnetic, digital or other means or media, for observation by five or fewer persons at one time, or any booth containing 150 square feet or less.

**Product Assembly:** An industrial use in which finished products or parts of products are assembled from previously manufactured or prepared materials, which were produced offsite. Product assembly also includes product packaging, including bottling, (but not bottling of liquids for human consumption; See "Food Processing Establishment"), packing, wrapping and boxing of products. Examples of product assembly include, but are not limited to: production of pharmaceutical, cosmetic products, and toiletries; fabrication of wood products such as boats, boxes, cabinets, furniture, and other wood products, where the wood is milled off site; fabrication of metal products such as panels, sheets, tubes and rods, metal foil, metal furniture, and sheet metal products; fabrication of clothing and other textile products from previously manufactured materials; the assembly of mechanical, electric, electromechanical and electronic devices, components, machines and appliances; and the fabrication and assembly of household

and office items and furnishings, scientific, medical, dental, and photographic equipment and supplies, hardware, recreation equipment, toys, bicycles, and musical instruments.

**Professional Land Surveyor:** Land surveyor properly licensed and registered in the State of New York.

**Property Line:** A line indicating the boundary of a piece of property shown on a recorded document. See “lot line.”

**Public Use:** Government-owned facilities to which the public has access, such as public parks, schools, administrative buildings, recreational, cultural and service buildings, but not including public land or buildings devoted solely to the storage and maintenance of equipment and material or the disposal of refuse.

**Public Utility:** Any person, firm, corporation or municipal department duly authorized under public regulation to furnish to the public electricity, gas, steam, telephone, fiber-optics, transportation, water, or sewer.

**Quasi-Public Use:** A use operated by a private nonprofit educational, religious, recreational, charitable or philanthropic institution, having the purpose primarily of serving the general public, such as churches, private schools, or similar uses.

**Racquet Club:** A building/facility sometimes requiring membership where racquet ball is played.

**Recreation, Commercial:** Recreation facilities operated as business on private or public property and open to the public for a fee, such as skiing facilities, tennis court, equestrian center, skating rink, bowling alleys, and similar facilities, and support facilities customarily associated with the particular type of commercial recreation.

**Recreation, Private:** Recreation facilities operated on private property and not open to the public.

**Recreational Vehicle:** A vehicle built on a single chassis and designed to be either self-propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as motor homes, travel trailers, fifth wheel camping trailers, tent trailers, pop-up campers, and similar variations. A recreational vehicle is not a manufactured home or a mobile home.

**Recycling Facility:** A building and/or site in which source-separated recoverable materials, such as newspapers, glassware, and metal cans are collected, stored, flattened, crushed, or bundled. A recycling facility shall not include manufacturing facilities. A recycling facility is not a junk yard.

**Research and Development Facility:** Scientific or research laboratories devoted to research, design, and/or experimentation, which may include processing and production operations incidental to research and development, but not including manufacture or sale of products.

**Restaurant:** A building in which food is prepared and served for consumption within the premises.

**Restaurant, Drive-In:** A building in which food is prepared and served for consumption on the premises, and which includes a facility which allows food to be ordered and taken from the premises for consumption elsewhere, without leaving a vehicle.

**Restaurant, Outdoor Dining:** A dining area with seats and/or tables located outdoors of a restaurant, coffee shop, or other food service establishment. This seating may be in addition to the indoor seating or it may be the only eating available for the restaurant.

**Retail Establishment:** A commercial enterprise that provides goods and/or services for sale directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Retail establishment is further defined as General Retail Establishment, Service Retail Establishment and Bulk Merchandise Retail Establishment.

**A. General Retail Establishment:** A retail establishment smaller in scale than a Bulk Merchandise Retail Establishment, which generally offers merchandise that is smaller than bulk merchandise. General Retail Establishments may include, for example, stores such as bookstores, jewelry stores, gift shops, and clothing stores.

**B. Service Retail Establishment:** Retail establishments that primarily render services rather than goods. Such services may include but not be limited to copy shops, package and postal services, photo processing, travel agencies, and financial institutions.

**C. Bulk Merchandise Retail Establishment:** A retail establishment that requires a large amount of floor space to display merchandise and/or which involves goods that are both warehoused and retailed at the same location. Examples of Bulk Merchandise Retail Establishments are stores that sell furniture, large appliances, garden supplies, and similar bulky items. An “Automobile Sales Establishment” and a “Building Supply Store” shall not be considered a Bulk Merchandise Retail Establishment.

**Riding Academy:** A commercial establishment in which horses are available for hire, and/or where people may bring their own horses to ride on the premises.

**Riding Stables:** A commercial establishment in which more than three horses, which are not owned by the property owner, are boarded and cared for. Horses may also be available for hire. A riding stable may also provide lessons in riding and jumping, and/or the handling, training, and care of horses.

**Right-of-Way:** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term “right-of-way” for land

platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for roads, streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plot on which such right-of-way is established.

**Road, Dead End:** A way or portion of a way with only one vehicular traffic outlet.

**Road, Private:** A road that has not been accepted by the Town of Caneadea or other governmental entity and that is privately owned and maintained.

**Road, Public:** A road which has been dedicated and accepted by the Town or other governmental entities, which the Town has acquired by prescriptive right or which the Town owns, or accepted for dedication, or a thoroughfare which has been dedicated or made public by right of use and which affords access to abutting property.

**Road System Classification:** For the purpose of providing for the development of the streets, highways, roads, and rights-of-way in and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road and right-of-way, and those located on approved and filed plats, have been designated on the Official Map of the Town and classified therein. The classification of each street, highway, road and right-of-way is based upon its location in the respective zoning districts of the Town and its present and estimated future traffic volume and its relative importance and function.

- A. Arterial:** A road intended to move through traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators with the governmental unit; and/or as a route for traffic between communities or large areas.
- B. Collector Roads:** A road intended to move traffic from local roads to arterials. A collector road serves a neighborhood or large subdivision.
- C. Highway, Limited Access:** A freeway or expressway, providing a traffic way for through traffic, in respect to which owners or occupants of abutting property or lands, and other persons, have no legal right to access to or from the same, except at such points and in such manner as may be determined by the New York State Department of Transportation, having jurisdiction over such traffic way.
- D. Local Road:** A road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

**Roof-Mounted Solar Energy System:** A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

**Sawmill:** A for-profit commercial establishment where logs are sawn, split, shaved, stripped, planed, or chipped, or otherwise processed. A “sawmill” does not include the processing of timber for use on the same lot by the owner or resident of that lot.

**School:** A facility, either public or private, that provides a curriculum of elementary, secondary and/or academic instruction, including pre-kindergartens, kindergartens, elementary schools, junior high schools, high schools, colleges, universities, and business and other advanced educational entities, but not including the home-schooling of children in their own home by their parents and/or guardians.

**Scenic Resource:** Any road, highway, lane, district, or corridor designated pursuant to Article 49 of the New York State Environmental Conservation law. Any area designated a Scenic Area of statewide Significance pursuant to New York State’s Coastal Management Program (19 NYCRR 602.5). Ridgelines designated in the Town of Caneadea Comprehensive Plan.

**Service Commercial Establishment:** Any commercial establishment whose primary activity is the provision of assistance, as opposed to products, individuals, business, industry, government, or other enterprises. Examples of service commercial establishments include automobile repair, mortuaries, commercial dry cleaning facilities, and similar services.

**Setback:** The required distance between every structure and the lot lines of the lot on which it is located. See “Yard.”

**Shopping Plaza:** A group of stores located on one lot, which has been planned and designed and which functions as a unit, and which contains off-street parking facilities. A shopping plaza may contain a mixture of commercial uses, including offices, restaurants, and retail stores.

**Sign:** Any structure, display, device, or representation which is designed or used to advertise or call attention to any thing, person, business, realty subdivision or development, activity or place, and is visible from a highway, road, street, or other public right-of-way. This definition is not to be restricted to traditional and familiar forms, but will include any new and evolving technologies such as, but not limited to, laser lights. This definition shall not include holiday decorations; the noncommercial use of any flag, emblem, insignia, or other display of any nation or political subdivision; traffic, safety or similar regulatory devices; scoreboards; or customary displays of merchandise or objects and materials placed behind a store window.

**Sign, Agricultural:** A sign used to identify rows of crops, types of cattle, the name of the farm, “farms of distinction,” and similar identification signs.

**Sign Area:** The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure. See also “Sign Face.”

**Sign, Awning:** A sign placed on or affixed to or incorporated into the surface of an awning, canopy, or similar device.



**Sign, Changeable Copy (Reader Board):** A sign on which letters and/or numbers are changed manually, i.e., a reader board with changeable letters.

**Sign, Directional:** An on-premises sign that includes information assisting in the flow of pedestrian or vehicular traffic, such as “enter,” “exit,” “one-way,” “parking ahead,” or similar directions.

**Sign Face:** The area or display surface of a sign used for the message. Sign Face does not include the structural supports of the sign. A double-sided sign has two sign faces. For purposes of measurement, the sign area for a double-faced sign shall be the area of one face only.

**Sign, Flashing:** An illuminated sign on which the artificial light is not maintained constant or stationary in intensity or color at all times when such sign is in use. “Time and Temperature Units” are not considered to be flashing signs for the purpose of this Law.

**Sign, Ground:** Any sign permanently anchored to the ground, which stands alone on its own foundation and structural supports, and which is detached from any supporting elements of any building.

**Sign, Off-premises:** A sign of any description that is displayed on any property other than the actual site of the thing, person, business, realty subdivision, or development, activity or place advertised on the sign.

**Sign, Portable:** A sign that is not permanently affixed to a structure or to the ground, including a sign that is mounted on wheels.

**Sign, Projecting:** A sign, normally double faced, which is affixed to a wall of any structure or building, and any part of which projects by more than twelve (12) inches from such wall. A projecting sign may be either perpendicular or parallel to the building to which it is affixed.

**Sign, Real Estate:** A sign that advertises the sale or rental of the property.

**Sign, Roof:** A sign erected on, against, or above a roof and which extends above any point of a building with a flat roof, above the main ridge line of a building with a pitched roof or the deck line of a building with a mansard roof.

**Sign, Sandwich Board (A-Frame Sign):** A type of portable sign that is constructed in such a manner as to form an “A” or tent-like shape, connected at the top of the sign.

**Sign Structure:** Any structure which supports, has supported, or is intended to support, or help maintain a sign that is in a stationary position.

**Sign, Vehicle:** A sign that is attached to or painted on a vehicle that is parked on, near, or adjacent to any property, the principal purpose of which is to attract attention to a product sold or business located on the property. A vehicle, which is used for business purposes and which is

driven on a regular basis, containing a business logo or sign shall not be construed to be a “vehicle sign.”

**Sign, Wall:** A sign fastened to, or painted on the wall of a building in such a manner that the wall becomes the supporting structure for, or forms that background surface of the sign, and which does not project more than twelve (12) inches from such building.

**Sign, Window:** A sign, whether or not lighted, which is applied or attached to a window in such a manner that it can be seen from a public sidewalk, passageway, road, street, or highway.

**Site Plan:** A scale drawing(s), including attachments, showing the relationship between the lot lines and building or structures, existing or proposed on a lot, including such details as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, and densities.

**Site Plan Review:** The review of the site plan of any public or private project by the Planning Board.

**Slaughterhouse, Commercial:** A building used for the for-profit slaughtering of animals that are either raised or transported to the building, and the processing and storage of animal products and waste that results from the slaughtering process.

**Slaughterhouse, Agricultural:** An accessory building on a lot used for agriculture, as defined herein, which is used for the nonprofit slaughtering of animals raised on the site, and the processing and storage of animal products and waste that results from the slaughtering process. A building used for seasonal deer processing, whether for profit or not for profit, shall be considered an agricultural slaughterhouse.

**Small Wind Energy Conversion System:** A WECS consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity of greater than 10 kilowatts, but not more than 150 kilowatts and a total height of greater than 50 feet, but not more than 125 feet.

**Solar Energy Equipment:** Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

**Solar Panel:** A photovoltaic device capable of collecting and converting solar energy into electrical energy.

**Spa:** A commercial establishment which employs professional, licensed therapists whose services may include massage and body or facial treatments. Treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, body toning, waxing, aromatherapy, cleansing facials, and electrolysis. Hydrotherapy and steam and sauna facilities, nutrition and

weight management, spa cuisine, and exercise facilities and instruction may be provided. A spa does not include overnight sleeping facilities.

**Special Flood Hazard Area (SFHA):** Areas designated by the Federal Emergency Management Agency (FEMA) on the Town of Caneadea Flood Insurance Rate Map (FIRM) as areas with a 1 percent annual chance of flooding, also known as the 100 year flood plain.

**Special Use:** In accordance with Town Law §274-b, any use of land or buildings or both that require special approval from the Planning Board as described herein. A Special Use may also be referred to as a “Conditional use.”

Special uses are allowed in zoning districts, but only upon the issuance of a special use permit subject to conditions designed to protect surrounding properties and the neighborhood from any possible negative impacts of the permitted use. Also called Conditional Use Permit, Special Exception Permit, and Special Permit.

**Storage Building:** A structure incidental to the main use of the parcel for the purpose of storing goods and materials excluding Self-Storage Buildings. The structure must be placed behind the front building line and must conform to setback requirements as defined elsewhere. Prefabricated structures, whether wood, metal or other material, are permissible provided they are intended to mimic barn type buildings. Truck bodies and shipping containers such as Conex containers are not permitted.

**Storage Facility, Self-Service:** Commercial building/property where indoor and/or outdoor space is rented to tenants, usually on a monthly basis, in which tenants can store and access their goods.

**Store:** An ongoing establishment for the purpose of retail sales to the public.

**Story:** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

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

- A. More than 6 feet above grade plane; and/or
- B. More than 6 feet above the finished ground level for more than 50 percent of the total building perimeter; and/or
- C. More than 12 feet above the finished ground level at any point.

**Story, Half:** A story under a gable, hip or gambrel roof of which the wall on at least two opposite exterior walls are at least 4 feet above the floor. If the exterior walls are 7 ½ feet tall or higher, the space shall be considered to be a full story.

**Street:** See “Road.”

**Structure:** Anything constructed, the use of which requires fixed location on or in the ground, or attached to something having a fixed location upon the ground, and which imposes an impervious material on or above the ground; “structure” includes “building.” All structures, except driveways, sidewalks and fences, must maintain the minimum setbacks for the district in which they are located, both above and below the ground. Signs shall conform to the setbacks established elsewhere in this law.

**Substantial Damage:** Damage of any origin sustained by a structure, where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Market value shall be determined by dividing the assessed value by the equalization rate.)

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “Start of Construction” of the improvement. (Market value shall be determined by dividing the assessed value by the equalization rate.) “Substantial improvement” includes structures which have incurred “Substantial damage,” regardless of the actual repair work performed. Substantial Improvement does not, however, include either:

- A.** any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B.** any alteration of a “Historic structure,” provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Super graphics:** Any mosaic, mural, painting or graphic art, or combination thereof which is applied to a building, directly on the outer wall. Super graphics may or may not contain a commercial message.

**Tandem Parking:** A parking design which necessitates parking one vehicle behind another. See Article 4.

**Telecommunications Antenna:** A system of electrical conductors that transmit or receive radio frequency waves.

**Telecommunications Facility:** Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular or PCS (Personal Communication Services) operation (also known as Base Transceiver Station or BTS).

**Telecommunications Tower:** A structure on which one or more antenna will be located that is intended for transmitting and/or receiving radio, television, telephone, wireless, or microwave communications for an FCC licensed carrier, but excluding those used exclusively 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 private, residential communications.

**Temporary:** Lasting, existing, serving, or effective for a limited time; not permanent.

**Temporary Wind Measurement Tower:** A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction installed prior to construction of a WECS for wind site assessment which remains in place for a limited period of time. The data provided allows the developer to determine the economic viability of the project as well as to select the optimal type of turbine for the location.

**Terminal, Cargo:** See “Cargo Terminal.”

**Terminal, Truck:** See “Truck Terminal.”

**Time and Temperature Unit:** A sign or portion of a sign displaying only current time and temperature in an electronic or digital fashion.

**Total Height:** Height of WECS measured from ground elevation to top of tip of blade in vertical position.

**Tower:** The support structure, including guyed, monopole, and lattice types, upon which wind turbine or other mechanical device is mounted.

**Town:** Town of Caneadea, New York.

**Town Board:** The Town Board of the Town of Caneadea, County of Allegany, State of New York.

**Town Clerk:** The Town Clerk of Caneadea, New York.

**Town Engineer:** The licensed professional engineer designated by the Town Board to furnish engineering assistance for the administration of this Law.

**Trade School:** An educational facility, usually for profit, which provides instruction of industrial, clerical, managerial, and/or secretarial skills, and similar vocational instruction.

**Transient Lodging:** A hotel, motel, or inn.

**Triplex:** A structure containing three dwelling units, each of which has direct access to the outside without entering another dwelling. See also “Dwelling, Three Family.”

**Truck Terminal:** A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in the use would be express and other mail and package distribution facilities.

**Usable Open Space:** See “Open Space, Usable.”

**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 regulations.

This is a variance that allows for the use of land in a way that is not permitted by the dimensional or physical requirements of the zoning law. This type of variance is needed when a building application does not comply with the setback, height, lot, or area requirements of the zoning ordinance. For example, if an owner wants to build an addition to a house that encroaches into the side-yard setback area, that owner must apply to the zoning board of appeals for an area variance.

**Variance, Use:** The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

A variance that allows landowners to put their land to a use that is not permitted under the zoning law. This type of variance may be granted only in cases of unnecessary hardship. To prove unnecessary hardship, the owner must establish that the requested variance meets four statutorily prescribed conditions. If a parcel of land is zoned for single-family residential use and the owner wishes to operate a retail business, the owner must apply to the zoning board of appeals for a use variance.

**Vehicle Customizing Shop:** A commercial establishment which provides services for automobiles, motorcycles, and other similar vehicles such as applying paint protectors, applying decorative paint stripes, as well as installation of aftermarket accessories such as tinting, auto alarms, spoilers, sunroofs, headlight covers, and similar items. No automobile repair shall be conducted as a “vehicle customizing shop.”

**Very Small Wind Energy Conversion System:** A WECS consisting of one wind turbine, one tower (or other mounting system), and associated control or conversion electronics which is smaller than the minimum size or rated capacity limits for Small Wind Energy Conversion Systems with a rated capacity of less than 10 kilowatts.

**Warehouse:** A building used primarily for the storage of goods and materials.

**Wholesale Business:** Place of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Retail sales may be allowed as an accessory use.

**Wind Energy Conversion System (WECS):** Any mechanism designed for the purpose of converting wind energy into electrical energy. A WECS may include one or more wind turbines, towers, associated control or conversion electronics, transformers, and/or other maintenance or control facilities or other component used in the system. A WECS may be either a Utility-scale Wind Energy Conversion System or a small-scale Wind Energy Conversion System.

**Yard:** A required space on a lot other than a court, unoccupied and unobstructed by buildings from the ground upward, except as otherwise provided herein. Yard areas for below grade structures must be provided unless a variance is obtained.

**Yard, Front:** A required space between the front line of the main building and the front lot line or closer right-of-way line of an abutting road or right-of-way and extending across the full width of a lot. The “depth” of the front yard is the minimum distance between the front lot line and the front line of the closest building.

**Yard, Rear:** A required space between the rear line of the building and the rear lot line, or closer road and extending the full width of the lot. The “depth” of the rear yard is the minimum distance between the rear lot line and the building wall.

**Yard Sale:** A temporary, noncommercial sale, typically of used items, typically held at a private residence. Duration not to exceed three (3) days in a calendar year. Yard sales running longer than three (3) days will require a Special Use Permit.

**Yard, Side:** A required space between the side line of the building and the side lot line and extending from the front yard to the rear yard. The “width” of the side yard shall be the minimum distance between the side lot line and the side line of the building.

**Zoning Board of Appeals:** The Zoning Board of Appeals of the Town of Caneadea, New York.

**Zoning Districts:** The Districts as designated in the current Zoning Law of the Town of Caneadea and referenced herein.

**Zoning Map:** The map or maps incorporated in the current Zoning Law of the Town of Caneadea, which designates the various Zoning Districts.

**Zoning Official:** The official, appointed by the Town Board, who is responsible for the administration and enforcement of this Law.

**Zoning Permit:** A permit issued by the Zoning Official, prior to the issuance of a building permit, which certifies that a proposed structure or use meets all the regulations of this Law.