

ARTICLE II RULES AND DEFINITIONS

Section 2.01 Rules

The following rules shall apply when interpreting the text of this Ordinance.

- (A) Words used in the present tense include the future tense.
- (B) Words used in the singular include the plural, and words used in the plural include the singular.
- (C) The word "person" includes any individual, trust, association, firm, company, organization, partnership or corporation.
- (D) The word "he" includes the word "she."
- (E) The words "shall," "must" or "will" are mandatory. The word "may" is permissive. The word "should" is to be interpreted as expressing that which is desired and essential, but is not mandatory.
- (F) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- (G) The phrases "to erect," "to construct" and "to build" shall have the same meaning and shall include the excavation for a building foundation and the relocation of a building from one location to another.
- (H) The word "structure" shall include the word "building."
- (I) The word "lot" includes the word "plot," "piece" and "parcel."

Section 2.02 Definitions of Terms

The following words and terms, wherever they occur in this Zoning Ordinance, shall be interpreted as herein defined. Words used in this Ordinance 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.

A WEIGHTED SOUND PRESSURE LEVEL - The sound pressure level measured in decibels (dBA) and is equal to 20 times the logarithm to the base 10 of the ratio of root mean square sound pressure to a reference sound pressure, weighted by frequency band following standard procedures. The reference sound pressure in air is $2 * 10^{-5}$ Pascals. The measurement of the

sound pressure level may be done according to the American National Standard, Quantities and Procedures for Description and Measurement of Environmental Sound (ANSI/ASA S12.9-1993, Parts 1,2 and 3, Reaffirmed by ANSI April 2008), published by the Acoustical Society of America (ASA) and the American National Standards Institute (ANSI), or other accepted procedures.

ABANDONMENT - To cease or discontinue a use or activity.

ACCESSORY BUILDING - See "Building, Accessory."

ACCESSORY STRUCTURE - See "Structure, Accessory."

ACCESSORY USE - See "Use, Accessory."

ADULT DAY CARE CENTER - 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.

ADULT USES - Any use or establishment constituting an adult body painting studio, adult entertainment cabaret, adult massage establishment, adult model studio, adult motel, adult retail store, adult theater, adult video store, and/or peep show, as defined herein, or similar use that excludes any minor by reason of age.

ADULT BODY 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 minors by reason of age.

ADULT ENTERTAINMENT CABERET - A public or private nightclub, bar, restaurant or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers or other similar entertainment, 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. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or duly licensed massage therapist, or 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 that have facilities for physical exercise such as tennis courts, racquetball 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 persons 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 in the NYS Education Law for the issuance or conferring of and is in fact authorized to issue or confer a diploma.

ADULT MOTEL - A motel which excludes minors by reason of age or which make available to its patrons in their rooms films, slide shows or videotapes which if presented in a public movie theater would exclude 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 purposes 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 THEATER - A theater that customarily presents motion pictures, films, DVDs, videotapes or slide shows and which excludes minors by reason of age.

ADULT VIDEO STORE - An establishment having as a substantial or significant portion of its stock in trade, videotapes, DVDs, or films for sale or viewing on premises by use of motion picture devices, video equipment or other coin operated means and which establishment excludes any minor by reason of age.

PEEP SHOW - A theater which presents material in the form of live shows, films, DVDs or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.

AGRICULTURAL USE - The raising of agricultural products including livestock, poultry, dairy products, farm crops, fruit, vegetables, cultivated plants and nursery stock, whether for gain or otherwise.

AIRPORT, PRIVATE - An area of land arranged, intended or designed for the landing or taking off of aircraft owned by individual owner or lessor of said lands and/or his bona fide guests. The landing area shall not be equipped with facilities for the supplying, servicing and/or repairing of aircraft thereon or the receiving or discharging of passengers or cargo by air for hire.

ALTERATION - As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities of such building or structure, or any enlargement thereof, whether by extension on any side, front or rear or by any increase in height, or the moving of such building or structure from one location to another.

ALTERNATIVE FUEL STATION - See "Gas and Alternative Fuel Station."

ALTERNATIVE TOWER STRUCTURE - Man-made trees, buildings, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

AMENITIES - Open space, housing for persons of low or moderate income, infrastructure improvements, parks, elder care, day care or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the Town Board pursuant to Section 1.09 of this Zoning Ordinance.

ANIMAL, DOMESTIC - See "Household Pet."

ANIMAL, FARM - See "Livestock."

ANIMAL, WILD - An animal living in a state of nature and not ordinarily tame or domesticated.

ANTENNA - Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, microwaves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

ANTIQUÉ MOTOR VEHICLE - A motor vehicle manufactured more than twenty-five years prior to the current year, which has been maintained in or restored to a condition which is substantially in conformance with the manufacturer's specifications.

APICULTURE - Beekeeping of one or more hives or boxes occupied by bees.

ARCHERY RANGE - A building or premises where there are facilities for target practice with bows and arrows, whether open to the general public or by membership.

AREA, BUILDING - See "Building Area."

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

ARTS AND CRAFTS STUDIO - A commercial establishment in which handmade crafts and arts are produced and/or sold. An arts and crafts studio may house one or more occupations such as painting, sculpting, pottery, weaving and other fiber arts, glass-blowing, jewelry-making, woodworking, furniture making, candle-making, and similar arts and crafts.

AUXILIARY DWELLING UNIT - See "Dwelling Unit, Auxiliary."

AWNING - A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

BAKERY - A retail establishment primarily engaged in the sale of baked food products for consumption on-site and/or off-site. The products may be prepared either on or off-site.

BANK - See "Financial Institution."

BAR - A commercial establishment licensed by the State of New York whose primary activity is the sale of alcoholic beverages for consumption on the premises. Food and/or entertainment may also be provided.

BASE FLOOD - See "Flood, Base."

BED AND BREAKFAST ESTABLISHMENT - An owner occupied residential building containing a dwelling unit in which at least one, but not more than six, sleeping rooms are provided by the owner/occupant as overnight lodging facilities for the accommodation of transient guests for a fee, and where breakfast is provided to the guests only.

BILLBOARD - A type of off-premises sign that exceeds forty (40) square feet in sign area.

BOARD OF APPEALS - The Zoning Board of Appeals of the Town of Allegany, County of Cattaraugus, New York.

BOARD, PLANNING - The Planning Board of the Town of Allegany, Cattaraugus County, New York.

BOARD, TOWN - The Town Board of Allegany, County of Cattaraugus, New York, which is the Municipal Board of the Town of Allegany.

BOARDING HOUSE - A building in which three or more persons individually or as families are housed, lodged or boarded with or without meals, for compensation pursuant to previous

arrangement, but not open to public or overnight guests, by the resident owner-occupant of the dwelling.

BREAST HEIGHT - Measurement of the diameter of a tree at a height of four and one-half (4 1/2) feet from the ground.

BREW PUB - A restaurant that includes the brewing of beer on the premises, as an accessory use.

BUFFER YARD - An area of land forming a visual and/or physical separation or barrier between two uses. In the case of a visual barrier the land shall be covered with natural plantings or man-made material to provide a continuous physical screen preventing visual access and reducing noise.

BUILDABLE AREA - The space remaining on a lot after the minimum yard requirements of this Ordinance have been complied with.

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

BUILDING, ACCESSORY - A building located on the same lot as the principal building and which is clearly incidental to, and customarily found in connection with such principal building or use.

BUILDING AREA - The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

BUILDING FACE - The exterior wall of a building, or that portion of the building wall occupied by an individual tenant, which is used for wall sign area calculation purposes. See Section 5.12.

BUILDING HEIGHT - See "Height."

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 products and materials generally used in the maintenance, repair or construction of buildings and/or grounds, such as but not limited to hardware, lumber, tools, etc. A building supply store may also sell appliances, lighting fixtures, plumbing fixtures and similar products for buildings. A building supply store may also sell lawn and garden supplies.

BULK FUEL FACILITY - A commercial enterprise where flammable liquids, natural gas and/or propane that have a flash point at or below two hundred degrees Fahrenheit (closed cup tested) are stored for wholesale purposes, where the aggregate capacity of all storage tanks is more than eight thousand (8,000) gallons, regardless of whether the fuel is stored above the

ground, underground or in mobile tank cars or trucks. This definition does not include oil and gas production facilities. A "gas and alternative fuel station" shall not be construed to be "bulk fuel storage."

CALIPER - A measurement of the diameter of a tree.

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.

CANOPY - A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway and/or entry sidewalk.

CAR WASH - A building, premises or portions thereof where automobiles and other vehicles are washed either by the patron or others either by hand or using machinery and mechanical devices specifically designed for this purpose.

CEMETERY - A place used for interment of human remains or cremated remains, and/or pets, including a burial park for earth interments, a mausoleum for vault or crypt interments, or a combination thereof. "Cemetery" shall not include a crematorium.

CHILD DAY CARE CENTER - An establishment where care is provided for one or more children on a regular basis, for periods of less than 24 hours a day, in a place other than the child's own home. 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.

CHURCH - See "Place of Worship."

CINEPLEX THEATER - See "Theater, Cineplex."

CIVIC FACILITY - Buildings, structures and other uses owned and operated by the Town of Allegany, any other governmental agency, and/or fire district or fire company, which is regularly used for neighborhood meetings and/or other forms of public assembly.

CLASSIC MOTOR VEHICLE - A motor vehicle manufactured more than ten years prior to the current year and which because of discontinued production and/or limited availability is

considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

CLERK - The Town Clerk of the Town of Allegany, Cattaraugus County, New York.

CLUB - A private club maintained and operated for the exclusive use of members and guests. This definition does not include a fraternity or sorority house.

CLUSTER DEVELOPMENT - A subdivision of land in which the applicable zoning ordinance regulations are modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping, in order to preserve the natural and scenic qualities of open lands.

CODE ENFORCEMENT OFFICER (CEO) - The administrative officer appointed by the Town to enforce the provisions of this Zoning Ordinance.

COLLEGE - A post-secondary institution authorized by the state to award certificates, associate, baccalaureate, master and/or doctoral degrees.

COMMERCIAL RECREATION FACILITIES - Active and passive recreational facilities operated as a business and open to the public for a fee. Commercial recreation facilities include uses such as skiing facilities, snow tubing parks, tennis court, equestrian center, skating rink, bowling alleys, miniature golf courses, hiking trails, picnicking and similar facilities, and support facilities customarily associated with the particular type of commercial recreation. Activities may be conducted either indoor or outdoor.

COMMERCIAL STABLE - See "Stable, Commercial."

COMMERCIAL USE - A business use or activity, at a scale greater than a home occupation, involving the marketing of goods and services. Examples of commercial establishments include stores, office, and service retail uses such as copy shops and banks.

CONIFER - A type of evergreen tree that includes forms with true cones (such as pines) and others with an arillate fruit (such as yews).

CONSTRUCTION, START OF - Any work on a property, other than grading or clearing, that is preparatory to construction or placement thereon of a building or structure. Included as types of commencement are digging or excavation for basement or foundation, sewer or water system.

CONTIGUOUS PARCEL - A tract of land under the control of the same owner as adjacent parcels which are not divided from other adjacent parcels by any natural or man-made barriers such as existing streets and highways, public right-of-ways identified on the official map, or waterbodies.

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.

CONVENIENCE STORE - See "Mini-mart."

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.

CORNER LOT - See "Lot, Corner."

COUNTY - The County of Cattaraugus, New York State.

COVERAGE - See "Lot Coverage."

CRITICAL ROOT ZONE - A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree to survive. The minimum critical root zone is the entire area included in a tree's dripline. However, if circumstances warrant, the Planning Board may require a larger critical root zone to be protected during construction.

CROSS ACCESS - A driveway that interconnects the parking facilities of two or more abutting properties. Cross access driveways provide an opportunity for vehicles to move from one development to another without recourse to the roadway, thus reducing traffic volumes on the road and eliminating conflicts with entering or exiting vehicles.

CULTURAL FACILITY - Public libraries, museums, art galleries and other similar community institutions and quasi-public uses.

DECIDUOUS - A plant that loses its leaves at least once during the year.

DEPARTMENT STORE - A business that is conducted under a single owner's name, wherein a variety of unrelated merchandise is sold directly to the customer.

DEPENDENT MANUFACTURED HOME - See "Manufactured Home, Dependent."

DEVELOPMENT - Any man-made change to improved or unimproved property including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DEVELOPMENT PLAN - A comprehensive plan for development of an entire area or site(s), which has been reviewed and approved by the Town Board as a distinct Planned Development (P-D) District, established by means of a zoning amendment under the requirements of New York State Town Law. See Section 4.11 of this Zoning Ordinance.

DRIPLINE - A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

DRIVE IN THEATER - See “Theater, Drive In.”

DRIVE-THROUGH FACILITY - An accessory use to a commercial building, such as a bank, restaurant or pharmacy, in which a customer drives his/her motor vehicle up to an opening in the building, from which the customer transacts business without getting out of the vehicle.

DWELLING - A structure or portion thereof which is used exclusively for human habitation.

DWELLING, ATTACHED SINGLE FAMILY - Dwelling attached to one or more other one-family dwellings by common walls.

DWELLING, DETACHED - A dwelling which is not attached to any other dwelling unit.

DWELLING, MULTIPLE - A building or portion thereof containing three (3) or more dwelling units.

DWELLING, SEASONAL - See “Seasonal Dwelling.”

DWELLING, SINGLE-FAMILY - A building containing one dwelling unit.

DWELLING, SINGLE-FAMILY DETACHED - A dwelling which is designed for and occupied by not more than one household and which is surrounded by open space or yards and which is not attached to any other dwelling by any means.

DWELLING, TWO-FAMILY - A building containing two dwelling units.

DWELLING UNIT - One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single household. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel, boarding house or other such use of a transient nature.

DWELLING UNIT, AUXILIARY - A secondary dwelling unit established in conjunction with and clearly subordinate in size to a principal, detached single-family dwelling on an owner-occupied lot. The auxiliary dwelling unit may be located in the same structure as the principal dwelling or in a detached building that is located on the same lot as the principal dwelling. See Section 5.11.

ELECTRIC VEHICLE (EV) CHARGING STATION - A battery charging station or rapid charging station designed to recharge battery powered electric vehicles and plug-in hybrid electric vehicles. There are two types of Electric Vehicle Charging Stations, Private and Public:

- (a) **Private Electric vehicle charging station** - An electric vehicle charging station that is privately owned and has access restricted to the owner/tenant of the property, such as parking at a single-family home or multi-family dwelling.
- (b) **Public Electric vehicle charging station** - an electric vehicle charging station that is either publicly owned and publicly available (e.g., park and ride parking, public library parking lot) or privately owned but available to the public, such as shopping center parking lots.

ELECTRIC VEHICLE (EV) CHARGING STATION PARKING SPACE - A marked parking space that contains an Electric Vehicle Charging Station. The parking space may be restricted for the exclusive use of an electric vehicle.

ESSENTIAL SERVICES - The erection, construction, alteration, or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings. For purposes of this Zoning Ordinance, Telecommunications Facilities and Telecommunications Towers, which are defined separately in this Ordinance, shall not be considered to be "essential services," but shall be governed by the separate regulations for "telecommunications facilities."

EVERGREEN - A plant that holds its leaves throughout the year.

FACTORY-BUILT HOUSING - A factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: manufactured homes, mobile homes, and modular homes.

FARM STAND - A commercial enterprise in which agricultural products, such as vegetables, flowers, and fruit, which are primarily grown on-site, are sold.

FARMWORKER HOUSING - A dwelling, located on a parcel in agricultural use, for the purpose of housing an employee of that farm operation, which may also provide housing for the employee's family. Farmworker housing is an accessory use to the principal use of a parcel or parcels for agriculture. Farmworker housing may include, but is not limited to, a mobile home or manufactured home.

FEED AND GRAIN STORAGE FACILITY - A commercial enterprise in which grain and other agricultural produce is stored and sold at wholesale and/or retail.

FENCE - An artificially constructed barrier of wood, masonry, stone, metal or any other material or combination of materials erected for the enclosure or screening of areas of land.

FINANCIAL INSTITUTION - The premises of a bank, credit union, savings and loan company, trust company, finance company, mortgage company, investment company or similar institution.

FINISHED GRADE - See "Grade, Finished."

FISH FARM - An area devoted to the cultivation of fish and/or other seafood for commercial sale.

FITNESS CENTER - See "Health Club."

FLAG LOT - See "Lot, Flag."

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland waters.
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

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

FLOOD HAZARD AREA - Land in the flood plain within the municipality subject to a one percent (1%) or greater chance of flooding in any given year, known as the "100 year flood".

FLOODPLAIN - The low lands adjoining the channel of a river, stream or watercourse, lake or other body of standing water, which have been or may be inundated by flood water. The channel of a stream or watercourse is a part of the flood plain in accordance with the National Flood Insurance Program (NFIP) as administered by the Federal Emergency Management Agency (FEMA).

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 more than a designated height, in accordance with the National Flood Insurance Program (NFIP) as administered by the Federal Emergency Management Agency (FEMA). Also referred to as Regulatory Floodway.

FLOOR AREA - See "Gross Floor Area."

FORESTRY - The growing and/or harvesting of tree species for commercial purposes.

FUNERAL HOME - A building or part thereof used for human funeral services, including chapels, embalming, autopsies, storage of caskets, funeral urns and other related funeral supplies, and the storage of funeral vehicles, but does not include facilities for cremation.

GARAGE, PRIVATE - A building, accessory to dwellings, used for the parking or temporary storage of motor vehicles, boats and trailers, and incidental household belongings.

GAS AND ALTERNATIVE FUEL STATION - Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel, and oil and other

lubricating substances. Alternative fuels, such as bio-diesel, compressed natural gas (CNG), hydrogen, liquefied natural gas (LNG) and similar fuels may be sold.

GAS AND ALTERNATIVE FUEL STATIONS WITH MINI-MART - A gas and/or alternative fuel station with a retail convenience store as an accessory use.

GOLF COURSE - Any tract of land designated for playing the game of golf and for services related thereto.

GRADE, FINISHED - The final elevation of the ground level of a site after development. Finished grade shall be established at the ground adjacent to the building or structure. If the ground is not entirely level, finished grade shall be determined by averaging the elevation of the ground for each face of the building or structure.

GRADE, NATURAL - Elevation of the existing surface of the land prior to commencement of construction of any improvements proposed or previous site disturbance.

GREENHOUSE - (1) A commercial enterprise whose principal activity is the growing of plants within an enclosed building, including hydroponic farming. Some plant cultivation may occur outdoors. Plants may be stored on site and may be sold to wholesalers and/or to the general public. Outside storage and/or display areas of plants and gardening equipment is allowed as an accessory use. *And/or* (2) A commercial enterprise where plants are sold, regardless of whether or not they are grown on site.

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.

GUN CLUB - A building or premises where there are facilities for the firing of handguns, rifles, or other firearms, whether open to the general public or by membership.

HEALTH CLUB - For profit or non-profit establishment which provides athletic, exercise, weight control and other similar health activities on a fee or membership basis.

HEIGHT - For a *building* and other enclosed structure the height is the vertical distance measured from the finished grade to:

- (a) the highest point of the roof for flat roofs
- (b) to the deck line of mansard roofs
- (c) to the mean height between eaves and ridge for gable, hip and gambrel roofs.

The height of a *tower* or other structure that does not have a roof is the vertical distance measured from the finished grade to the highest point on the tower or other structure, including the base pad and any antenna.

The height of a *wind energy conversion system (WECS)* shall be measured from natural grade to the top of the tip of the blade in the highest vertical position.

HISTORIC RESOURCES - Any historic building, structure, facility, site 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 NY Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for a nomination for inclusion in the National Register of Historic places. Any locally significant historic resource designated pursuant to Article 5-K of the NYS General Municipal Law is also included.

HOME OCCUPATION - A profession, activity or land use that is undertaken for profit, regardless of whether or not a profit is made, at a scale less than a commercial use, within a dwelling unit or accessory structure on the same lot, that is carried out by the resident(s). A home occupation is an accessory use to the residential use of the property and shall be clearly incidental and secondary to the use of the property as a residence. See Section 5.10.

HOSPITAL - An institution, licensed by the State of New York, providing primary health services and medical or surgical care to persons, primarily inpatients.

HOTEL - An establishment open to the general public providing lodging accommodations designed for use by overnight transients or travelers or temporary guests, for compensation. A hotel may also be known as a "motel" or "inn."

HOUSEHOLD PET - Animals that are customarily kept for personal use, companionship or enjoyment within the home. Household pets may include, but are not limited to, dogs, cats, rabbits, domestic birds such as parakeets and parrots, guinea pigs, and domestic mice and rats.

INCENTIVES - Adjustments to the permissible population density, area, height, open space, use, or other provisions of this zoning ordinance for a specific purpose authorized by the Town Board pursuant to Section 1.09 of this Zoning Ordinance.

INCENTIVE ZONING - The system by which specific incentives are granted, pursuant to section 261-b of NYS Town Law, on condition that specific physical, social, or cultural benefits or amenities would inure to the community.

INDIVIDUAL SOLAR ENERGY SYSTEM - See "Solar Energy System, Individual."

INDUSTRIAL USE - A business use or activity that involves manufacturing, fabrication, assembly and/or warehousing.

INDOOR THEATER - See "Theater, Indoor."

INN - See "Hotel."

JUNK - One or more junk appliance(s), junk accessory vehicle, junk furniture, junk mobile home and/or junk manufactured home, and/or two or more junk motor vehicles.

JUNK ACCESSORY VEHICLE - Any abandoned or discarded truck camper, camping trailer, recreational vehicle, camper, travel trailers, pop-up trailer, tent trailer or overnight trailer.

JUNK APPLIANCE - Any inoperable and/or unused household appliance, including but not limited to, a stove, washing machine, dryer, dishwasher, freezer, refrigerator, air conditioner, water heater, or television, which is stored outside of any residence or structure.

JUNK FURNITURE - Abandoned, discarded, or irreparably damaged furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

JUNK MANUFACTURED and/or MOBILE HOME - Any abandoned or discarded structure, or part thereof, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, if erected on a site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. To qualify as a junk manufactured or mobile home, the dwelling must meet two out of three of the following conditions for six months or more:

- (1) the electrical service is disconnected or terminated
- (2) it is not occupied as a dwelling unit.
- (3) it is no longer habitable for residential occupancy, as determined by the Town's Code Enforcement Officer.

JUNK MOTOR VEHICLE - Any motor vehicle or used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicle, which is:

- (1) unlicensed or unregistered; or
- (2) abandoned, wrecked, stored, discarded, dismantled, or partly dismantled; or
- (3) not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways.

With respect to any motor vehicle not required to be registered or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to move under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle, unless refuted by verifiable and credible proof.

Exceptions: The following shall not be considered to be a junk motor vehicle:

- (1) Unregistered vehicles stored by or for the owner while the owner is:
 - (a) a full time student of the immediate family attending a school, college, or university; or
 - (b) a member of the US Armed Forces; or
 - (c) physically unable to operate a motor vehicle by reason of an injury or illness.
- (2) Farm machinery on a parcel used for an agricultural use, including forestry. Farm machinery kept for parts shall be kept in a location not visible from a public road.
- (3) Vehicle used for property maintenance on its own property, which does not travel on public roads.

- (4) Antique or classic motor vehicles.
- (5) An automobile dealer, who is licensed by New York State and who is conducting business in accordance with the regulations of the Town, is permitted to have unregistered vehicles for sale on the lot where the business is conducted. All vehicles shall be in condition for use on the public highways.
- (6) An automobile repair shop, which is licensed by New York State and which is conducting business in accordance with the regulations of the Town, may have disassembled vehicles awaiting repair.

JUNK STORAGE AREA - The area of any lot used or intended to be used for the placement, storage or deposit of junk.

JUNKYARD - The outdoor storage or deposit of any of the following, whether in connection with another business or not, for a period of more than 30 consecutive days in any six month period of time:

- (1) Two or more junk motor vehicles, or parts that in combination equal two or more vehicles; and/or
- (2) One or more junk manufactured or mobile homes; and/or
- (3) One or more junk appliance(s); and/or
- (4) One or more junk accessory vehicles; and/or
- (5) One or more items of junk furniture; and/or
- (6) Any combination of the above that totals two or more items.

KEEPING OF LIVESTOCK - See "Livestock, Keeping Of."

KENNEL - Any lot or premises on which four (4) or more domestic animals more than four (4) months of age, are bred, raised, and/or boarded, for compensation.

LAND USE ACTIVITY - Any construction or other activity which changes the appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions to existing uses, roads, driveways and excavations for the purpose of extracting soil or mineral deposits.

LANDSCAPING - Any combination of living plants (such as grass, ground cover, shrubs, vines hedges, or trees) and nonliving landscape material (such as rocks, pebbles, mulch, walls, fences, or decorative paving materials). Landscaping may include the preservation and incorporation of existing trees and vegetation into site development.

LIGHT MANUFACTURING - See "Manufacturing, Light."

LIVESTOCK - Dairy and beef cattle, horses, sheep, goats, llamas, alpacas, bison, poultry, emus, rabbits, or any similar farm animal, but not including household pets or wild animals.

LIVESTOCK, KEEPING OF - The breeding, raising or grazing of livestock, including dairy farms, beef cattle, horses, poultry, rabbits and similar farm animals. Products derived from the

livestock, such as milk or wool, may be stored on-site, but no commercial manufacturing of the product is allowed (for example, no manufacture of ice cream or cheese).

LOADING AND UNLOADING SPACE, OFF-STREET - An open area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers to avoid undue interference with public streets and alleys.

LOCAL COMMERCIAL ESTABLISHMENT - A retail enterprise that provides goods for sale directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Such establishments may include, but are not limited to, stores such as antique and secondhand stores; apparel and accessory stores; book and stationary stores; office supplies; confectionery shops; florists; hardware stores; furniture and home furnishings; lighting, electrical and appliance stores; jewelry and gift shops; liquor stores; pharmacies; and sporting goods and bicycle stores.

LONG TERM CARE FACILITY - A for-profit or not-for-profit facility that provides bed care, inpatient services and related medical services on a 24-hour per day basis for two or more individuals requiring regular medical attention, but excluding facilities providing surgical or emergency medical services, and excluding facilities providing care for alcoholism or drug addiction.

LOT - A parcel of land, which is in one ownership, with frontage on, or legal access to, a public or private road.

LOT AREA - The net area contained within lot lines, measured on a horizontal plane.

LOT, CORNER - A parcel of land situated at the intersection of two or more streets. In the case of a corner lot, the Town of Allegany Code Enforcement Officer shall designate which street right-of-way line shall be considered as the front lot line; in making this determination the CEO shall take into consideration the building orientation to the street and the point of access to the lot.

LOT COVERAGE - The area and/or percentage of a lot occupied by the principal building(s) and accessory buildings. Lot coverage shall be calculated by dividing the building area by the lot area.

LOT DEPTH - The mean horizontal distance between the front and rear lot lines, measured approximately perpendicular to the front lot line.

LOT, FLAG - A lot that has access to a road by means of a narrow strip of land. A flag lot may also be referred to as a "panhandle" lot. A flag lot has the appearance of a flag and staff, or a frying pan, in which the staff or panhandle is used as the point of access.

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

LOT LINE - Any boundary line of a lot. The front lot line shall be the right-of-way line of the street giving access to the lot.

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 in existence at the time of adoption of or amendment to this Zoning Ordinance.

LOT, THROUGH - A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

LOT WIDTH - The distance between the side lot lines, measured at the front yard setback line.

MANUFACTURED HOME - A structure transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and which is designed to be used as a single family dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. A "manufactured home" is manufactured according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 United States Code Sec. 5401) and is sometimes referred to as a "HUD Code home." A manufactured home must display a "HUD seal" (data plate). The term "Manufactured Home" does not include recreational vehicles, travel trailers or modular homes.

MANUFACTURED HOME, DEPENDENT - A manufactured home or mobile home allowed as a temporary, accessory use to a single family home, where the dependent manufactured home is occupied by a family member of the resident of the lot, who is dependent for care upon the family.

MANUFACTURED HOME PARK - A plot or parcel of land containing two (2) or more manufactured or mobile homes.

MANUFACTURED HOME SPACE - A plot of ground within a manufactured home park designed for the accommodation of one manufactured or mobile home.

MANUFACTURING - The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials.

MANUFACTURING, HEAVY - The manufacture, assembly, fabrication, packaging or other processing of products primarily from extracted or raw materials. Heavy manufacturing includes the following and similar uses:

- (1) Commercial laundries and dry cleaning plants, provided that all solvents used in the process and the vapors therefrom shall be non-explosive and nonflammable, and the entire cleaning and drying process shall be carried on within completely enclosed solvent-reclaiming units;
- (2) Manufacture of plastics, resins and abrasives;
- (3) Manufacture of heavy machinery;
- (4) Metal and metal ores reduction, refining, smelting, alloying, and casting and foundry products;
- (5) Automobile assembly and fabrication;
- (6) Processing or treatment of bituminous products;
- (7) Concrete products manufacture; concrete or cement mixing plants;
- (8) Other industrial processes such as blending, mixing, and packaging of disinfectants, insecticides, fungicides, ink, soap, detergents and related household and industrial chemical compounds

MANUFACTURING, LIGHT - The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such projects, and incidental storage, sales and distribution of such products. Light manufacturing includes the following and similar uses:

- (1) Manufacture and assembly of mechanical and electronic devices, electrical appliances, the machining and assembly of parts made of metal, electrical and electromechanical devices and components;
- (2) Manufacture and/or assembly of precision tools and equipment, including tool, die, and pattern making; machine shops;
- (3) Manufacture and/or assembly of machines and machine parts, such as automobile parts, sewing machines, typewriters, calculators and office machines;
- (4) Treatment and processing of metal and metal products, including finishing, plating, grinding, sharpening, cleaning, rustproofing, and heat treatment;
- (5) Fabrication of metal products such as panels, sheets, tubes and rods, bicycles, metal foil, tin, aluminum, gold, metal furniture, musical instruments, and sheet metal products;
- (6) The manufacture and/or assembly of household and office items and furnishings; musical, scientific, medical, dental and photographic equipment and supplies; recreation equipment, amusement devices, novelties and toys of any type;
- (7) Fabrication of wood products such as boats, boxes, cabinets, woodworking, and furniture;
- (8) Fabrication of paper products such as bags, book bindings; boxes and packing materials, and office supplies;
- (9) Fabrication of clothing and other textile products;
- (10) Production of pharmaceutical and cosmetic products and toiletries;
- (11) Commercial food and associated industries such as bakeries, bottling of beverages, food processing, frozen foods, food sundry manufacturing, ice cream manufacturing and other food products.

MEDICAL CLINIC - A place where medical or dental care is furnished to persons on an out-patient basis by two (2) or more physicians, dentists, chiropractors, osteopaths, and/or occupational or physical therapists who have common offices in a building which may also offer laboratory and/or diagnostic facilities to patients on an out-patient basis. A medical clinic may include such uses as reception areas, offices, consultation rooms, x-ray facilities, minor operating rooms and/or a pharmacy. A medical clinic shall not provide overnight accommodation.

MICRO-BREWERY A small-scale production facility at which beer is produced and bottled and at which wholesale and retail storage and distribution may occur. The volume of production of such facility may not exceed 15,000 barrels or 465,000 gallons per year. The facility may have a tasting room for the consumption and sales of products produced on site.

MICRO-DISTILLERY A small-scale, craft alcohol production facility, which may include the production of distilled spirits, hard ciders, and/or wine. The volume of production of such a facility may not exceed 35,000 gallons per year. The facility may have a tasting room for the consumption and sales of products produced on site.

MINI-MART - A small retail establishment, usually associated with another use, that offers for sale a limited line of grocery and household items, cosmetics, convenience foods.

MINI -STORAGE FACILITY - Any building or group of buildings on a single parcel made of individual storage cells, which are rented or leased to and individual or business for storage of nonhazardous materials, personal property and equipment.

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. Oil and/or natural gas extraction shall not be construed to be mining. Mining is further defined as Commercial Mining and Incidental Mining.

COMMERCIAL MINING - The extraction of more than 1000 tons or 750 cubic yards of minerals, whichever is less, in any consecutive 12 month period.

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-USE BUILDING - A single building that includes a mixture of two or more of the following uses: residential, office, retail, recreation, light industrial and/or other miscellaneous uses. Each use in a Mixed-use Building shall be individually allowable as a permitted or special permitted use within the zoning district in which the building is located.

MOBILE HOME - A transportable, factory-built home, designed to be used as a year-round, single family dwelling, built prior to June 15, 1976, the effective date of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. A mobile home does not

display a HUD seal (data plate). The term "Mobile Home" does not include recreational vehicles, travel trailers or modular homes.

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, removed from their transport frame, and are assembled and installed on a permanent foundation on-site. A modular home is not built on a chassis, and it may also be known as a "factory manufactured home." A modular home is not a "manufactured home."

MORTUARY - See "Funeral Home."

MOTEL - See "Hotel."

MOTOR VEHICLE - All vehicles propelled or drawn by power other than muscular power, originally intended for use on public highways, including but not limited to automobiles, bus, truck, semi-tractor, motorcycle, and mini-bicycle. A motor vehicle shall also include vehicles such as all-terrain vehicles and snowmobiles, and watercraft, which are not intended for use on the public highways.

MOTOR VEHICLE SALES DEALER - Anyone who meets the standard in NYS Department of Motor Vehicles, *Part 78, Motor Vehicle Dealers & Transporters Regulations*, which is: "Any person who sells, or offers for sale more than five motor vehicles, motorcycles or trailers, other than mobile home trailers, in any calendar year or who displays or permits the display of three or more motor vehicles, motorcycles or trailers, other than mobile home trailers, for sale at any one time or within any one calendar month upon premises owned or controlled by him, if such vehicles were purchased, acquired or otherwise obtained by such person for the purpose of resale, will be regarded as a dealer." (*Section 78.1 Introduction*)

MULCH - Any nonliving organic material customarily used in landscape design to retard erosion and to retain moisture.

MUSEUM - An institution devoted to the procurement, care, study, and display of objects of lasting value or interest.

NATURAL GRADE - See "Grade, Natural."

NIT - A unit of illuminative brightness equal to one candela (12.5 lumens) per square meter, measured perpendicular to the rays of the source.

NOISE SENSITIVE PROPERTY - residences, hospitals, public libraries, schools, and places of worship in the Town of Allegany. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it is regularly used for one of the purposes listed herein in more than an incidental manner.

NONCONFORMING USE - See "Use, Nonconforming."

NON-PARTICIPATING PROPERTY OWNER - An entity which has not entered into any contractual arrangement with the applicant for a commercial Wind Energy Conversion System (WECS) facility covering land in the Town of Allegany.

NURSERY SCHOOL - An establishment operated for the purpose of providing both daytime care and instruction for two or more children from two to five years of age inclusive, and operated on a regular basis, including kindergartens, day nurseries, and day care centers.

NURSING HOME - See "Long Term Care Facility."

OFFICE, GENERAL BUSINESS - A non-retail, service-oriented office or agency such as realtors, insurance agents, computer programming, advertising agencies, photography studios, travel agencies and/or similar services.

OFFICE, PROFESSIONAL - A building or space used by persons such as accountants, architects, artists, dentists, designers, engineers, lawyers, physicians, physical therapists and similar professions, 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.

OPEN SPACE - Land in an essentially undeveloped state that is used for recreation, resource protection, habitat protection, nature preserves, view protection, buffer yards, and/or similar amenities.

OUTDOOR STORAGE - Storage other than in a completely enclosed building, such as a house, garage or barn.

PARK - A public or private area of land that is predominately open space, that is available to the general public, and that is principally used for active and passive recreation and/or for scenic purposes, and that is not used for a profit-making purpose. These areas may include, but shall not be limited to, walkways, benches, open space, playing fields, wading pools, and similar features. Also see "Commercial Recreation Facilities."

PARKING LOT, COMMERCIAL - Any tract of privately-owned land which is used for the storage of motor vehicles as the principal use of the lot and is not accessory to any other use on the same or any other lot, and contains parking space rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

PARKING LOT, PRIVATE - Land used for the storage of motor vehicles as an accessory use to the principal use of the site, which is located on the same lot as the principal use or on another lot. The parking spaces are reserved in some manner for the principal use and are not available to the general public.

PARKING LOT, PUBLIC - An off-street parking area where motor vehicles may be stored by the general public, with or without a fee, for temporary, daily or overnight parking.

PARKING, OFF-STREET - An area separated from a street with an appropriate means of vehicular access to the street, intended for the temporary storage of vehicles.

PARKING SPACE - Space available for the parking of one motor vehicle.

PARKING STRUCTURE, COMMERCIAL - Any structure in which motor vehicles may be parked or stored that is not accessory to another use on the same lot, and contains parking spaces rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

PARTICIPATING PROPERTY OWNER - an entity which has entered into a lease, easement, or other contractual arrangement with the applicant for a commercial Wind Energy Conversion System (WECS) facility covering land in the Town of Allegany.

PEEP SHOW - See "Adult Use."

PERSONAL SERVICE ESTABLISHMENT - A business establishment where professional services are provided for gain and where the retail sale of merchandise is accessory to the provision of such services, including but not limited to the following: barber shops and beauty shops; tailor shops; shoe repair shops; tanning salons; laundromats, both self-serve and drop off; and dry cleaning establishments.

PET GROOMING ESTABLISHMENT - A commercial enterprise where household pets are bathed, clipped, and/or combed, for a fee. No overnight boarding of the animals is permitted.

PETTING ZOO - See "Zoo, Petting."

PLACE 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 social meeting hall and administrative offices may be located in the same building or in a separate building. A "place of worship" includes churches, synagogues, temples, and mosques.

PLANT CULTIVATION - The use of land for the growing of plants and crops in the open. Types of crops include, but are not necessarily limited to, field crops, fruit trees, vegetables, flowers, grapes, nursery stock, mushrooms, and tree farms. Minor processing of the crops to prepare them for market, such as sorting, cleaning, packing, storage, drying, and/or hulling, shall be considered to be "plant cultivation." Production of maple syrup and maple sugar shall be construed to be "plant cultivation."

POWER PLANT - An electrical power generation facility that, regardless of fuel or energy source, is operated by a public utility or independent power producer and whose primary function is the provision of electricity to the electrical distribution system or transmission grid. The plant may also incorporate a co-generation or combined heat and power (CHP) process. A Wind Energy Conversion System (WECS) shall not be considered to be a "power plant."

PREMISES - A lot together with all the buildings and uses thereon.

PRINCIPAL BUILDING - See "Building, Principal."

PRINCIPAL STRUCTURE - See "Structure, Principal."

PRINCIPAL USE - See "Use, Principal."

PRINT SHOP - A commercial establishment 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.

PUBLIC USE - Government owned facilities to which the public has access, such as public parks, schools, administrative buildings, recreations, cultural and service buildings.

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

QUASI-PUBLIC USE - Churches, nursery schools and child care centers, parochial schools, colleges, libraries, museums, medical centers, hospitals and similar institutions of an educational, religious, charitable or philanthropic nature.

RAIL FREIGHT TERMINAL - A rail facility for freight pick-up or distribution.

RECREATION FACILITIES, COMMERCIAL - See "Commercial Recreation Facilities."

RECREATIONAL VEHICLE (RV) - A vehicle built on a single chassis and designed to be either self propelled or towed by another vehicle. A recreation 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 trailers, campers, and travel trailers. A recreation vehicle is not a "manufactured home" or a "mobile home".

RECYCLING FACILITY - An establishment that accepts recyclable materials, whether by donation or purchase, from the public. Recyclable materials include materials such as newspapers, cardboard, glassware, beverage cans and bottles, and metal. The materials may be collected, flattened, crushed, bundled and/or stored, but no manufacturing of new products may occur. A recycling facility shall not be construed to be a junkyard.

RELIGIOUS INSTITUTION - A primarily residential land use in which the members of a religious order share communal living and dining facilities. A Religious Institution may also contain a Place of Worship. Convents and monasteries are considered to be Religious Institutions.

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.

RESIDENTIAL USE - A land use consisting of single-family, two-family or multiple dwellings, or other forms of housing for humans that is permitted in this Ordinance.

RESTAURANT - A commercial establishment where food and beverages are prepared, served and primarily consumed on the premises and where food sales constitute a minimum of 51 percent of the gross sales receipts. Takeout sales may be allowed, provided there is no drive-through window.

RESTAURANT, DRIVE-THROUGH - A building in which food is prepared and served for consumption on the premises and which includes a facility that allows food to be ordered and taken from the premises for consumption elsewhere, without leaving a vehicle.

RETAIL USE - A commercial use or activity primarily involving the sale of merchandise to the public.

RIGHT-OF-WAY - A strip of land not on a lot that is dedicated to public use for pedestrian and/or vehicular movement, and which may also accommodate public utility infrastructure (including but not limited to water lines, sanitary sewer lines, power lines and gas lines), curbs, lighting, and drainage facilities. In no case shall a right-of-way be construed to mean an easement. A public right-of-way is a right-of-way that is dedicated or deeded to the public for public use and that is under the control of a public agency.

RIGHT-OF-WAY LINE - The dividing line separating a lot from a street. In any case where a future right-of-way has been established or approved by the Town, County or State, such future right-of-way line shall be considered as the right-of-way line for the purposes of determining lot area and setback requirements.

SAWMILL - A for-profit establishment where logs are sawn, split, shaved, stripped, planed, or chipped or otherwise processed. A sawmill may include the drying and/or storage of wood. A "sawmill" does not include the processing of timber for use on the same lot by the owner or resident of that lot.

SCENIC RESOURCE - Any road, highway, lane, district or corridor designated pursuant to Article 49 of the NYS Environmental Conservation Law. Any area designated a Scenic Area of Statewide Significance pursuant of the NYS Coastal Management Program is also included.

SCHOOL - A facility, either public or private, that provides a curriculum of elementary, secondary and/or academic instruction, including pre-kindergartens, kindergartens, elementary schools, middle schools, and/or high schools, but not including the home-schooling of children in their own home by their parents and/or guardians.

SEASONAL DWELLING - Summer or winter cabins, cottages, hunting camps, and similar housing designed, intended and/or used for seasonal, non-permanent residential use.

SETBACK - The required minimum distance by which any building or structure must be separated from a lot line or right-of-way line. Also see "yard, required."

SETBACK LINE, FRONT - The setback line that is parallel to the front lot line.

SETBACK LINE, REAR - The setback line that is parallel to the rear lot line.

SETBACK LINE, SIDE - The setback line that is parallel to the side lot lines.

SHADE TREE - A hardwood tree that reaches a minimum height of 15 feet at maturity and which provides relief from direct sunlight for at least six months of each year.

SHOPPING PLAZA - A group of retail and other commercial establishments that is planned, owned, and managed as a single property. On-site parking is provided.

SHRUB - A self-supporting woody perennial plant of low stature, characterized by multiple stems and branches growing from the base.

SIGN - Any words, lettering, symbols, figures, numerals, emblems, pictures, devices or representation in the nature of a visual communication, whether painted, posted, printed affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes. This definition shall not include holiday decorations; the noncommercial use of any flag, emblem, insignia or other display of any nation, political subdivision, or organization; traffic, safety or similar regulatory devices; scoreboards; vending machines; 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, AWNING - A sign incorporated into or attached to an awning.

SIGN, CANOPY - A sign incorporated into or attached to a canopy.

SIGN, CHANGEABLE COPY - A sign or any portion thereof, on which letters and/or numbers are changed manually. The letters and numbers are static once they are changed. There are no animated or moving components. A "changeable copy sign" is not a "digital display sign."

SIGN, DIGITAL DISPLAY - A sign containing words, numbers, symbols, figures or images that can be electronically or mechanically changed by remote, automatic means. There are two types of Digital Display Signs: Electronic Graphic Display Signs and Video Display Signs.

SIGN, DIRECTIONAL - An on-premises sign that assists in the flow of pedestrian or vehicular traffic, such as “enter,” “exit,” “one-way,” “parking ahead” or similar directions.

SIGN, ELECTRONIC GRAPHIC DISPLAY - A sign or portion thereof that displays electronic, static images, static graphics, or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LED’s), fiber optics, light bulbs or other illumination devices within the display area, where the message change sequence is accomplished immediately or by means of fade, repixelization or dissolve modes. Electronic Graphic Display Signs include computer programmable, microprocessor controlled electronic displays.

SIGN, FLASHING - Any moving or animated sign or any illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any revolving illuminated sign shall be considered a “flashing sign”.

SIGN, FREESTANDING - Any sign permanently anchored to the ground, which stands alone on its own foundation and structural supports and which is independent from any supporting elements of any building or other structure. There are several types of freestanding signs: Ground Signs, Monument Signs, Pole Signs, and Pylon Signs.

SIGN, GROUND - A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding six (6) feet.

SIGN, ILLUMINATED - Any sign designed to give forth any artificial light, or designed to reflect light from any natural or artificial sources, or illuminated by an exterior light.

SIGN, MONUMENT - A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding six (6) feet.

SIGN, NAMEPLATE - An on-premises sign that indicates the name of the occupants and/or the address of the property, or both.

SIGN, OFF-PREMISES - A sign that announces a use conducted and/or goods or services available at a location other than on the lot on which the sign is located. There are two types of off-premises signs: billboards and outdoor advertising signs.

SIGN, ON-PREMISES - A sign that announces a use conducted and/or goods or services available on the lot on which the sign is located.

SIGN, OUTDOOR ADVERTISING - A type of off-premises sign that has forty (40) square feet or less in sign area.

SIGN, POLE - A freestanding sign which has a sign face elevated above ground level by two or more supporting poles and with the area below the sign face open to the ground.

SIGN, PORTABLE - A sign designated or intended to be moved easily that is not permanently embedded in the ground or affixed to a building or other structure, including but not limited to the following signs: trailer signs (with or without wheels) menu and sandwich boards, sidewalk or curb signs, and A-frame signs.

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, PYLON - A freestanding sign which has a sign face elevated above ground level by one supporting pole and with the area below the sign face open to the ground.

SIGN, REAL ESTATE - A sign that advertises the sale or rental of the property on which the sign is located.

SIGN, TIME AND TEMPERATURE - A portion of a sign that displays only the current date, time and temperature in an electronic or digital manner.

SIGN, VIDEO DISPLAY - A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text, and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes.

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.

SIGN AREA - The entire face of a sign, including the surface and any framing, trim, or molding, but not including the supporting structure. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four-sided geometric shape which most closely parallels the outline of said sign. Also see "sign face."

SIGN FACE - The area or display surface of a sign that is used for the message. "Sign face" does not include the structural supports of the sign. A double sided sign has two sign faces.

SITE PLAN - A drawing or sketch that shows the arrangement, layout and design of the proposed use of a single parcel of land.

SOLAR ENERGY SYSTEM, INDIVIDUAL - A system which converts solar energy to usable thermal, mechanical, or electrical energy to meet all or a part of a building's energy requirements, including heating, cooling, hot water and/or electricity. A solar energy system is an accessory use to the principal use of the lot on which it is located and serves only the uses on that lot. A solar energy system shall provide no more electricity than is needed for the principal use and/or accessory use of the lot on which the solar energy system is located and shall not be used for the generation of energy for sale to others; however, the solar energy system may be connected to the local utility via a net-metering system. Such systems may be roof mounted on a principal or accessory structure or may be free-standing, but shall adhere to all required dimensional regulations, including height, setbacks, and coverage.

SPA - A commercial establishment which employs professional, licensed therapists whose services 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. See also "health club."

STABLE, COMMERCIAL - A commercial establishment where horses are available for riding to the general public and/or in which more than three horses not owned by the property owner are boarded for a fee. A commercial stable may provide lessons in riding, jumping and/or the handling, training, and care of horses.

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

STREET CLASSIFICATION - The classification of each street, highway, road and right-of-way is based upon its location and its present and estimated future traffic volume and its relative importance and function. Streets are classified according to the following types of street capacities:

- (a) Local Street - Provides for direct access to abutting land and for local traffic movements. Local streets are the internal part of the Town's street system to provide movement within residential areas or to other land use areas. Low volume, low speed.
- (b) Collector Street - Provides for traffic movement between major arterials and local streets, and provides direct access to abutting property.
- (c) Arterial Street - Provides for the through traffic movement between areas and across the Town with direct access to collector streets and local streets. Arterial streets are subject to necessary measures to control entrances, exits and curb use and other devices to allow through traffic while protecting low volume, low speed streets from danger or congestion caused by high volume, high speed traffic.

- (d) **Expressway** - A divided arterial highway for through traffic to which access from the abutting properties is prohibited and all street crossings are made by grade-separated intersections or overpasses. High volume, high speed.

STREET, PRIVATE - A street that serves or is designed to serve more than one principal use or lot and which remains in the ownership of and is maintained by the developer or development association and is not dedicated to the Town.

STRUCTURE - Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. The term "structure" includes "building."

STRUCTURE, ACCESSORY - A structure located on the same lot 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 or convenience of the owners, occupants, employees, customers or visitors to the principal use.

STRUCTURE, PRINCIPAL - A structure in which is conducted the principal use of the lot on which it is located.

STUB STREET - a nonpermanent dead-end street intended to be extended in conjunction with the subdivision and/or development of adjacent land.

SUPERMARKET - A retail establishment primarily selling food, as well as other convenience and household goods, which occupies more than 25,000 square feet of gross floor area.

TAVERN - See "Bar."

TELECOMMUNICATIONS ACCESSORY STRUCTURE - An accessory facility or structure serving or being used in conjunction with a telecommunications tower and/or similar facility, and located on the same lot as the telecommunications tower. Examples of such structures include utility or transmission equipment storage sheds or cabinets.

TELECOMMUNICATIONS FACILITY - Towers and/or antennas and accessory structures together used in connection with the provision of cellular telephone service, personal communications services, paging services, radio and television broadcast services, and similar broadcast services.

TELECOMMUNICATIONS TOWER - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

THEATER, CINEPLEX - A facility with multiple movie theaters, each one of which is capable of providing performances independent of the others in the complex. The facility has a common box office, lobby, concession stand, and restroom facilities.

THEATER, DRIVE IN - An open lot and appurtenant facilities, devoted primarily to showing motion pictures and similar video entertainment to patrons seated in vehicles. A drive in theater may have a small concession stand as an accessory use.

THEATER, INDOOR - A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical and/or other performing arts.

TOPSOIL - A surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation. The "A" horizon of the soil column.

TOWN - The Town of Allegany.

TOWN HOUSE - A dwelling unit attached to other dwelling units by not more than two (2) common walls extending from the foundation to the roof. (Also see "Dwelling, attached single family").

TRADE SCHOOL - An educational facility, usually for profit, which provides instruction of industrial, clerical, managerial and/or secretarial skills, and similar vocational instruction.

TREE - A self supporting woody plant normally growing to a mature height of at least 15 feet.

TRUCKING TERMINAL - A building or part of a building or premises for the storage and/or transfer of goods, wares and merchandise for the owner or others by truck transport.

TRUCK STOP - A commercial service facility for over-the-road trucks and vehicles, which customarily provides services such as, but not limited to, fuel, restaurant facilities, shopping, shower facilities and parking facilities for prolonged periods for the drivers of said vehicles.

UNIVERSITY - See "College."

USE - The specific purpose for which land or a building is designed, arranged, or intended, or for which it is or may be occupied or maintained, let or leased.

USE, ACCESSORY - A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such use dominate, in area, extent or purpose the principal lawful use of building.

USE, NONCONFORMING - The use of a building, structure or land, which does not conform to the current land use regulations for the zoning district in which it is located, but which use 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 zoning district in which it is situated.

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

USE, PRINCIPAL - The primary use of any lot.

USE, PUBLIC - See "Public Use."

USE, QUASI-PUBLIC - See "Quasi-public use."

USE, SPECIAL - Any use of land or buildings or both that require special approval from the Planning Board. See Article VIII of this Zoning Ordinance.

USE, TEMPORARY - An activity conducted for a specified, limited period of time.

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.

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.

VEHICLE BODY SHOP - A building used for the repairing and/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.

VEHICLE SALES ESTABLISHMENT - An establishment, including open areas and/or enclosed showrooms, for the display and sale of new or used automobiles, trucks, trailers, motorcycles, boats, farm implements, construction equipment, and/or recreational vehicles.

VEHICLE SERVICE AND REPAIR FACILITY - An establishment where inspection of, repairs to, and servicing, greasing, and adjusting of, automobiles, trucks, and other 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.

VETERINARY OFFICE - An establishment for the care and treatment of animals, where animals may be boarded during their convalescence or as needed for medical treatment. This definition does not include a "Kennel."

WAREHOUSE - A building or premises, for storing of goods, wares and merchandise, whether for the owner or for others, whether publicly or privately owned or used.

WHOLESALE ESTABLISHMENT - A business establishment engaged in selling to retailers or jobbers rather than directly to consumers.

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 Commercial Wind Energy Conversion System or a Non-Commercial Wind Energy Conversion System.

- (a) **COMMERCIAL WIND ENERGY CONVERSION SYSTEM** - A wind energy conversion system that is intended solely to generate electrical power for sale to the power grid.
- (b) **NON-COMMERCIAL WIND ENERGY SYSTEM** - A wind energy conversion system that is incidental and subordinate to another use on the same parcel and that supplies electrical power solely for on-site use, except that when a parcel on which a noncommercial WECS is installed also receives electrical power supplied by a utility company, excess electrical power generated by the noncommercial WECS and not presently needed for on-site use may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by that company to the parcel for on-site use, as long as no net revenue is produced by such excess electrical power.

YARD - An unoccupied space, open to the sky, on the same lot with a building or structure.

YARD, FRONT - A required space between the front line of the principal building and the front lot line, extending across the full width of the lot.

YARD, REAR - A required space between the rear line of the building and the rear lot line, extending across the full width of the lot.

YARD, REQUIRED - The minimum yard required between a lot line and building line or line of any parking, loading and stacking area, which is open and unoccupied from the ground upward, except for walks and landscaping.

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 a side yard shall be measured at right angles to its side lot lines.

ZONING MAP - The map or maps incorporated into this Ordinance as a part hereof, designating zoning districts.

ZOO, PETTING - A collection of tame farm or domestic animals, but not including wild animals, which is so arranged for public display that human visitors have an opportunity to approach and pet them under supervised conditions.