

# Chapter 342. Zoning

## Article II. Definitions and Word Usage

### § 342-3. Terms defined.

#### A.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated. Words used in the present tense include the future; the singular number includes the plural, and the plural includes the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the words "plot," "sites" and "premises." The term "occupied" or "used," as applied to any building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used." Where no specific definition is given herein, the definitions of the New York State Uniform Fire Prevention and Building Code shall be accepted where applicable.

[Amended 3-23-1987 by L.L. No. 5-1987, effective 4-2-1987]

#### B.

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

#### **ALTER**

To change or rearrange the existing facilities of a structure or any of the supporting members of a structure, including but not limited to bearing walls, retaining walls, columns, beams or girders.

#### **AREA, BUILDING**

Total of areas taken on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

#### **AREA MEDIAN INCOME (AMI)**

The area median income for Westchester County, as defined and periodically updated by the United States Department of Housing and Urban Development in accordance with the exception criteria applicable to Westchester County.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

#### **ATTIC**

The area between the top of the ceiling joists of any story and the roof rafters.

[Added 5-12-2008 by 5-2008, effective 5-15-2008]

#### **BASEMENT**

That space of a building that is partly below grade but which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

#### **BEER**

A fermented beverage of any name or description manufactured from malt, wholly or in part, or from any substitute therefor.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

#### **BUILDING**

Any structure having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons, animals or property. Depending upon its applicability, the use herein of "building" shall include the term "structure."

[Amended 9-11-1972, effective 9-27-1972]

**BUILDING, ACCESSORY**

A building subordinate to the principal building on the same lot and used for purposes customarily incidental to that of said principal building.

**BUILDING, MAIN**

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

**BUFFER AREA – 50-FOOT**

An area surrounding a coastal shoreline, waterbody, or watercourse that is subject to the regulations of this chapter extending 50 feet from the mean high-water level.

**CABANA**

Small nonresidential structure, not exceeding 200 square feet, proximate to a bathing beach or pool to provide bathers with a room for changing and shelter from the sun and shall not have sleeping or cooking facilities.

[Added 5-8-2006 by L.L. No. 6-2006, effective 5-19-2006]

**CANOPY**

A roof structure or other covering or overhang supported or suspended over a gas pump island service area.

[Added 2-23-1987 by L.L. No. 4-1987, effective 3-5-1987]

**CAR SERVICE**

Service from a restaurant provided to customers remaining in their vehicles and parked in a designated parking area of the restaurant parking lot.

[Added 2-25-2008 by L.L. No. 3-2008, effective 3-4-2008]

**CELLAR**

That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.<sup>(1)</sup>

**CIDER**

The partially or fully fermented juice of fresh, whole apples or other pome fruits, containing more than 3 2/10% but not more than 8 1/2% alcohol by volume, to which nothing has been added to increase the alcoholic content produced by natural fermentation, and with the usual cellar treatments and necessary additions to correct defects due to climate, saccharine levels and seasonal conditions.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

**CLUB, MEMBERSHIP**

A not-for-profit corporation or organization with its facilities catering exclusively to members and/or their guests for recreational, athletic or social purposes and where vending stands, merchandising, commercial or business activities are not conducted, except as required generally for the membership and purpose of such club. Clubs shall operate without profit or division of any revenues to its members, except as reasonable compensation for special services actually rendered, devoting all revenues received to supporting the purposes and objectives of the club or to charitable uses. Club facilities and property interests shall be owned or leased by the corporation or organization and shall not be owned, leased, rented, or otherwise encumbered for use by individual members or nonmembers.

[Added 5-8-2006 by L.L. No. 6-2006, effective 5-19-2006]

**COASTAL SHORELINE**

The shoreline of Long Island Sound.

## **COVERAGE**

That percentage of the lot area covered by the combined area of all buildings or structures on the lot. A parking garage whose height is at least 50% below finished grade is exempt from this definition, provided that the roof of the parking garage is landscaped. The height of a parking garage that is located in the one-hundred-year floodplain may exceed 50% below finished grade, provided there is sufficient mitigation including landscaping, screening and setbacks.

[Amended 10-24-2005 by L.L. No. 7-2005, effective 11-4-2005]

## **CURB LEVEL**

The elevation of the curb opposite the center of the front of the building. If a building faces on more than one street, the "curb level" shall be the average of the elevations of the curbs at the center of each side or front of the building. Where no "curb level" or its equivalent has been established by the municipal authority, the average elevation of the finished grade immediately adjacent to the front of the building shall be considered as the "curb level." If a building faces on more than one street where no "curb level" has been established, the average of the elevations of the finished grade on each street side of the building shall be considered as the "curb level."

## **DELICATESSEN**

A business engaged in the retail sale of food, beverages and grocery items for consumption off premises and where meats, fish, salads, cheese, relishes and delicacy items might be specially prepared as sandwiches and other consumable items for lunch, snacks and other off-premises consumption. Such use shall not include tables and seating for on-premises food consumption. No drive-up or car service shall be permitted. [Added 1-22-1996 by L.L. No. 1-1996, effective 1-31-1996; amended 2-25-2008 by L.L. No. 3-2008, effective 3-4-2008]

## **DWELLING**

A building designed or used exclusively as living quarters of one or more families; the term shall not be deemed to include automobile court, motel, boarding- or rooming house, mobile home trailer, tourist home or tent.

## **DWELLING, MULTIFAMILY**

A building containing three or more dwelling units or a part of a building above a permitted business use containing three or more dwelling units.

## **DWELLING, ONE-FAMILY**

A dwelling containing one dwelling unit only.

## **DWELLING, TWO-FAMILY**

A dwelling containing two dwelling units only.

## **DWELLING UNIT**

A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space, other than vestibules, entrance or other hallways or porches, or cooking or sanitary facilities in common with any other "dwelling unit." A boardinghouse, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house or nursing or other similar home or structure shall not be deemed to constitute a "dwelling unit."

## **FAIR AND AFFORDABLE HOUSING FAMILY (FAHF)**

A family, the aggregate annual income of the members of which, including the total of all current annual income of all family members from any source whatsoever, but excluding the earnings of those members of the family under 21 years of age attending school full

time, does not exceed 80% of AMI at the time of application or, in the case of a rental, 120% at the time of renewal.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

**FAIR AND AFFORDABLE HOUSING UNIT (FAHU)**

A dwelling unit reserved for rental by a fair and affordable housing family, the maximum yearly rent for which, excluding utilities, does not exceed 30% of 80% of AMI at the time of application, or 30% of 120% of AMI at the time of renewal, or a dwelling unit reserved for sale to a fair and affordable housing family, the maximum gross sales price for which does not exceed 2.5 times 80% of AMI.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

**FAIR AND AFFORDABLE RESIDENCE**

A fair and affordable housing unit or a fair and deeply affordable housing unit.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

**FAIR AND DEEPLY AFFORDABLE HOUSING FAMILY (FDAHF)**

A family, the aggregate annual income of the members of which, including the total of all current annual income of all family members from any source whatsoever, but excluding the earnings of those members of the family under 21 years of age attending school full time, does not exceed 40% of AMI at the time of application or, in the case of a rental, 80% at the time of renewal.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

**FAIR AND DEEPLY AFFORDABLE HOUSING UNIT (FDAHU)**

A dwelling unit reserved for rental by a fair and deeply affordable housing family, the maximum yearly rent for which, excluding utilities, does not exceed 30% of 40% of AMI at the time of application, or 30% of 80% of AMI at the time of renewal, or a dwelling unit reserved for sale to a fair and deeply affordable housing family, the maximum gross sales price for which does not exceed 2.5 times 80% of AMI.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

**FAMILY**

One or more persons occupying a dwelling unit and living together as a single housekeeping unit in a familial relationship or not more than two unrelated persons living together as a single housekeeping unit.

**FAMILY DAY-CARE HOME**

As defined in § 390, Subdivision 6, of the Social Services Law of the State of New York.<sup>(2)</sup>

[Added 12-14-1987 by L.L. No. 15-1987, effective 1-28-1988]

**FLOOR AREA, GROSS**

The sum of gross horizontal areas of the several floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. Any interior space with a floor-to-ceiling height in excess of 12 feet shall be counted 1.5 times, except in the M-1 Zone. The following are excluded:

[Amended 5-12-2008 by L.L. No. 5-2008, effective 5-15-2008; 11-25-2013 by L.L. No. 12-2013, effective 12-5-2013; 11-28-2016 by L.L. No. 21-2016, effective 12-7-2016; 11-28-2016 by L.L. No. 22-2016, effective 12-7-2016]

(1)

Any attic space with a floor-to-ceiling height of less than seven feet.

(2)

Cellar and basement areas where the average height of all exposed exterior wall or walls is less than three feet measured from both the existing grade prior to

construction and from the proposed finish grade after construction as indicated on the approved plans.

(3)

In connection with uses other than single-family and two-family homes, any areas or structures devoted only to off-street parking or loading.

**FLOOR AREA, HABITABLE**

All spaces within the exterior walls of a dwelling unit, exclusive of garages, cellars, heater rooms and unheated porches and breezeways.

**FLOOR AREA RATIO**

The numerical value obtained by dividing the gross floor area, as defined in this Code, within a building or buildings on a lot by the area of the lot, excluding underwater lands.  
[Amended 5-12-2008 by L.L. No. 5-2008, effective 5-15-2008]

**FOOD SERVICE ESTABLISHMENT**

Any use which includes the serving of food and/or beverages that requires an eating place permit, or is otherwise required by either county or state law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens and fast-food restaurants. No drive-up or car service shall be permitted.  
[Added 1-22-1996 by L.L. No. 1-1996, effective 1-31-1996; amended 2-25-2008 by L.L. No. 3-2008, effective 3-4-2008]

**FRONTAGE**

The extent of a building or of land along a street.

**GARAGE, PRIVATE**

An accessory building or part of a main building used only for permitted storage of motor vehicles as permitted in this chapter.

**GRADE, FINISHED**

At any point along the wall of a building, the elevation of the completed surfaces of lawns, walks and roads adjoining the wall at that point.

**GREEN BUILDING ELEMENTS**

Measures incorporated into building design and construction that are intended to minimize impacts to the environment through conservation of natural resources, increased energy and efficiency and improved indoor air quality.  
[Added 11-24-2014 by L.L. No. 18-2014, effective 12-10-2014]

**GREEN INFRASTRUCTURE**

Measures that utilize best management practices for stormwater management that infiltrate or otherwise reuse stormwater. Such techniques may include green roofs, landscaping, rain gardens, bioretention areas, vegetated swales, pocket wetlands, infiltration planters and vegetated median strips. Individual green infrastructure practices shall be defined according to the current New York State Stormwater Management Design Manual.  
[Added 11-24-2014 by L.L. No. 18-2014, effective 12-10-2014]

**GREEN ROOF**

The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.  
[Added 11-24-2014 by L.L. No. 18-2014, effective 12-10-2014]

**GROCERY STORE, FULL-SERVICE**

A retail store offering a full line of groceries, meat, fruits and produce including general merchandise and health and beauty aids, and which may offer a service deli, baked goods, frozen and prepared foods, a specialty food shop and/or a pharmacy.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

#### **GROUND FLOOR**

The floor of a building at or closest to final grade.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

#### **GROUP FAMILY DAY-CARE HOME**

As defined in § 390, Subdivision 13, of the Social Services Law of the State of New York.<sup>[3]</sup>

[Added 12-14-1987 by L.L. No. 15-1987, effective 1-28-1988]

#### **HEIGHT, BUILDING**

For one- and two-family dwellings, the vertical distance to the highest level of the highest point of the roof if the roof is flat or mansard or to the mean level between the eaves and the highest point of the roof if the roof is of any other type, measured from the average level of the existing grade prior to construction adjacent to the exterior walls of the building. For all other buildings, the vertical distance to the highest level of the highest point of the roof if the roof is flat or mansard or to the mean level between the eaves and the highest point of the roof if the roof is of any other type, measured from the average level of the existing grade at the lot line abutting the lot at the front yard.

[Amended 5-12-2008 by L.L. No. 5-2008, effective 5-15-2008; 12-19-2016 by L.L. No. 25-2016, effective 12-28-2016]

#### **HOME IMPROVEMENT DESIGN CENTER**

A facility providing professional design services and/or sale of home-improvement-related products, including, but not limited to, cabinetry, tile and counter materials, appliances and furniture, provided that sales are conducted in an on-site showroom.

[Added 5-10-2010 by L.L. No. 12-2010, effective 5-26-2010]

#### **INDOOR RECREATION FACILITY**

An indoor facility providing accommodations for a variety of individual, organized or franchised sports, including but not limited to baseball, basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, squash, handball or swimming. Such facility may also provide health and fitness club facilities and martial arts instruction facilities. Support functions accessory to the principal use include a food and drink kiosk and sales desk for sports, health or fitness items associated with the facility.

[Added 5-10-2010 by L.L. No. 12-2010, effective 5-26-2010]

#### **IN-LIEU FEE**

An amount equal to \$2,500 for calendar year 2007, which shall subsequently be adjusted annually by the Planning Board, for all pertinent approvals granted during that calendar year. Each subsequent adjustment shall be based on the change in the December index, unadjusted for seasonal variation, of the United States Department of Labor Consumer Price Index, Urban Wage Earners and Clerical Workers (CPI-W) U.S. City average, all items (1967=100). Such fee shall be paid to the Village Recreation Site Acquisition and Improvement Fund and used, among other things, to acquire and maintain open space, and increase recreation opportunities. The in-lieu fee must be paid prior to the approval of the site plan and prior to the signing of the subdivision plat by the Chairman of the Planning Board and is calculated based on the index for the year in which the subdivision plat is signed.

[Added 6-11-2007 by L.L. No. 6-2007, effective 6-21-2007]

#### **LIQUOR**

Any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

### **LOT**

A parcel of land not divided by streets, consisting of one or more lots as shown on a filed subdivision plat or on the Village Assessor's Map, devoted or to be devoted to a particular use or occupied or to be occupied by a building or buildings as permitted by this chapter, together with such open spaces as are required under its provisions, and having its principal frontage on a street or on such other means of access as may be deemed, in accordance with the provisions of law, to be adequate as a condition of the issuance of a building permit for a building or buildings on such land.

### **LOT AREA**

The total horizontal area included within lot boundaries.

### **LOT, CORNER**

A lot at the junction of and abutting on two or more intersecting streets, where the interior angle of intersection does not exceed 135°. Any lot adjoining a curved street at a point where the street line describes an arc subtended by an angle of 135° or less shall also be considered a corner lot.

[Amended 11-28-2016 by L.L. No. 23-2016, effective 12-7-2016]

### **LOT DEPTH**

The horizontal distance from the street line of a lot to the rear lot line of such lot.

### **LOT LINE, FRONT**

In the case of a lot abutting upon only one street, the line separating the lot from the street. In the case of a corner lot, the owner shall, for the purpose of this chapter, have the option, in accordance with § **342-15.1** of this chapter, of electing any street lot line as the front lot line or choosing to have two front lot lines. In the case of a through lot, the owner shall, for the purposes of this chapter, have the option of electing either street lot line as the front lot line and the other street lot line shall be considered a rear lot line.

[Amended 11-28-2016 by L.L. No. 23-2016, effective 12-7-2016]

### **LOT LINE, REAR**

The lot line which is generally opposite the front lot line; if the rear lot line is less than 10 feet in length or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

### **LOT LINES**

The property lines bounding a lot as defined herein.

### **LOT LINE, SIDE**

Any lot line not a front or rear line.

### **LOT, THROUGH**

A lot which fronts upon two parallel streets, or which front upon two streets which do not intersect at the boundaries of a lot and is therefore not a corner lot.

[Added 11-28-2016 by L.L. No. 23-2016, effective 12-7-2016]

### **LOT WIDTH**

The horizontal distance between the side lot lines, measured at right angles to the lot depth.

### **MARKET-RATE HOUSING UNIT**

A housing unit that is not a fair and affordable housing unit or a fair and deeply affordable housing unit.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

### **MESSAGE ESTABLISHMENT**

Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, steam baths, body rub parlors and rub therapy establishments. This definition shall not be construed to include a hospital, nursing home or medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or barbershops or beauty salons in which full body, scalp, face, neck or shoulder massages are administered. This definition also shall exclude health clubs which 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.

[Added 3-27-2006 by L.L. No. 3-2006, effective 4-10-2006]

### **MEAN CURB LEVEL**

The arithmetic average of the extreme ends of the curb level elevations on the street frontage.

[Added 5-13-1985 by L.L. No. 12-1985, effective 5-22-1985]

### **MEAN HIGH WATER LEVEL (NON-TIDAL WATERBODY OR WATERCOURSE)**

The average springtime high water level of a non-tidal waterbody or watercourse, as determined by vegetative characteristics, such as the presence, absence or destruction of terrestrial or aquatic vegetation, and physical characteristics, such as a clear natural line impressed on a bank, scouring, shelving, or the presence of sediments or debris.

### **MEAN HIGH WATER LEVEL (TIDAL WATERBODY)**

The average height of the high waters of a tidal waterbody over a nineteen-year period immediately preceding the current year.

### **MICROBREWERY**

An establishment in which beer is manufactured which has the capacity to produce not more than 3,000 barrels of beer per year and does not produce more than 3,000 barrels of beer per year, as determined by the barrelage tax reports it files with the New York State Department of Taxation and Finance, and which is permitted to sell beer for on-site consumption or for off-site distribution under the New York State Alcoholic Beverage Control Law and the applicable regulations of the New York State Liquor Authority.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

### **MICROCIDERY**

An establishment in which cider is manufactured for sale which has the capacity to produce not more than 2,000 gallons of cider per year and which does not produce more than 2,000 gallons of cider per year, as determined by the barrelage tax reports it files with the New York State Department of Taxation and Finance, and which is permitted to sell cider for on-site consumption or for off-site distribution under the New York State Alcoholic Beverage Control Law and the applicable regulations of the New York State Liquor Authority.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

### **MICRODISTILLERY**

An establishment in which liquor is manufactured for sale which has the capacity to produce not more than 2,000 gallons of liquor per year and which does not produce more than 2,000 gallons of liquor per year, as determined by the barrelage tax reports it files with the New York State Department of Taxation and Finance, and which is permitted to



sell liquor for on-site consumption or for off-site distribution under the New York State Alcoholic Beverage Control Law and the applicable regulations of the New York State Liquor Authority.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

#### **MICROWINERY**

An establishment in which wine is manufactured for sale which has the capacity to produce not more than 500 cases of wine per year and which does not produce more than 500 cases per year, as determined by the barrelage tax reports it files with the New York State Department of Taxation and Finance, and which is permitted to sell wine for on-site consumption or for off-site distribution under the New York State Beverage Control Law and any applicable New York Liquor Authority regulations.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

#### **MIXED-USE DEVELOPMENT**

A development that contains both residential and nonresidential uses.

[Added 8-26-2019 by L.L. No. 3-2019, effective 8-28-2019]

#### **MOTEL (HOTEL)**

A building or portion thereof containing rooms occupied primarily by transients who are lodged, with or without meals, and in which there may be certain public rooms for the use of guests and in which are provided such services as are incidental to the use thereof as a temporary residence.

#### **MOTOR VEHICLE FILLING/SERVICE STATION**

A facility primarily engaged in the retail sale, direct to the motorist, of motor vehicle fuels and/or in the routine maintenance of motor vehicles, including activities such as engine diagnostics, tune-ups, car washing, changing of fluids, filters and belts, and tire and shock replacement. Permitted accessory uses may include the sale of cigarettes, candy, coffee and soda.

[Added 3-8-1999 by L.L. No. 5-1999, effective 3-17-1999]

#### **MOTOR VEHICLE REPAIR/BODY SHOP**

A facility principally used for the repair of motor vehicles. This work may include the routine maintenance associated with a motor vehicle filling/service station as well as body work, vehicle painting and vehicle reassembly. Permitted accessory uses may include the sale of parts, tires, oil and car/truck washes.

[Added 3-8-1999 by L.L. No. 5-1999, effective 3-17-1999]

#### **NANO BREWERY**

An establishment in which beer is manufactured which has the capacity to produce not more than 1,000 barrels of beer per year and does not produce more than 1,000 barrels of beer per year, as determined by the barrelage tax reports it files with the New York State Department of Taxation and Finance, and which is permitted to sell beer for on-site consumption or for off-site distribution under the New York State Alcoholic Beverage Control Law and the applicable regulations of the New York State Liquor Authority.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

#### **NEIGHBORHOOD STABILIZATION FUND**

A fund to be managed by the Village Manager or his designee and administered by the Village Manager or his designee. Funds administered may be used by the Village for public improvements within the TOD Overlay District or the Washingtonville neighborhood as defined in the Village of Mamaroneck Comprehensive Plan.

[Added 11-24-2014 by L.L. No. 18-2014, effective 12-10-2014]

#### **NONCONFORMING USE**

A use of a building or of land that does not conform to the regulations as to use in the district in which it is situated, which use was lawful at the time this chapter or amendments thereto became effective (See Article **IX**).

**NURSERY SCHOOL**

A place, building or structure used or intended to be used to provide care or instruction for two or more children under six years of age, other than a family day-care home or a group family day-care home for which a permit has been issued pursuant to § 390, Subdivision 1(a), of the Social Services Law of the State of New York.<sup>[4]</sup>  
[Amended 12-14-1987 by L.L. No. 15-1987, effective 1-28-1988]

**NURSING HOME**

A skilled nursing facility licensed by the State of New York to provide full-time convalescent or chronic health care under medical supervision to individuals who are unable to fully care for themselves, but not including facilities for surgical care or institutions dedicated to the care and treatment of mental illness, alcoholism, or narcotics addiction. No nursing home shall contain any uses other than those permitted pursuant to applicable regulations of the State of New York and the nursing home's operating certificate issued pursuant thereto.

[Added 10-15-1996 by L.L. No. 12-1996, effective 10-24-1996]

**OFFICE BUILDING**

A building occupied or used for business or professional offices of individuals, partnerships, associations or corporations and in which no commercial goods, materials or products are sold or offered for sale at retail from the premises, no stock-in-trade other than samples is displayed or stored and no commercial goods, materials or products are manufactured, assembled or commercially serviced or repaired.

**PARKING AREA**

An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of about 350 square feet of "parking area" per parking space. (See Article **VIII**).

**PARKING SPACE**

A paved or surfaced area, which surface may include pervious or impervious material subject to approval of the Village Engineer, which, exclusive of excess driveways and turning areas, is accessible and available at all hours for the parking of one passenger car and is nine feet wide and 19 feet long; employee parking spaces may be reduced in width from nine feet wide to 8 1/2 feet wide, and the length shall remain 19 feet long.

[Amended 5-29-1974, effective 6-12-1974; 9-23-2013 by L.L. No. 10-2013, effective 10-8-2013]

**PLACE OF PUBLIC ASSEMBLY**

A structure or portion thereof devoted to the occupancy and use by the general public for social, recreational or entertainment purposes, other than a club, hotel, theater or bowling alley, in which accommodations are made for more than 25 persons.

**PLANNED RESIDENTIAL DEVELOPMENT**

A clustered design of attached, semidetached or detached dwelling units located on relatively large tracts of the Village's remaining residential land, planned on a unified basis so as to preserve open space, provide increased recreational opportunities, protect environmental values and improve the balance and diversity of the Village's housing stock, when such a project has been determined to be of significant benefit to the Village and is approved by the Village Planning Board in accordance with the standards as set forth in this chapter.

[Added 2-26-1979 by L.L. No. 7-1979, effective 3-21-1979]

**PLAYGROUNDS, CHILDREN'S**

Any portion of a permitted private nonprofit park or playground.

**PORCH**

A roofed-over structure projecting from the wall or walls of a main structure, whether or not open to the weather. It shall be deemed to be a part of the building.

**PUBLIC GARAGE**

Motor vehicle filling/service station or public garage.

[Added 3-8-1999 by L.L. No. 5-1999, effective 3-17-1999]

**RESIDENCE, EMPLOYEE**

Living quarters only for caretakers and staff during their employment on a full-time annual or seasonal basis by the not-for-profit club membership corporation or organization.

[Added 5-8-2006 by L.L. No. 6-2006, effective 5-19-2006]

**RESIDENCE, SEASONAL**

Living quarters for transient use by members and guests of members when accompanied by a member, and may be occupied between April 15 and October 15 and may not be occupied between October 16 and April 14. A seasonal residence may not be occupied by the same person(s) for more than 30 days in a calendar year. A seasonal residence is limited to a maximum of 600 square feet. Seasonal residences shall not have kitchen or cooking facilities.

[Added 5-8-2006 by L.L. No. 6-2006, effective 5-19-2006]

**RESTAURANT**

A business engaged in the preparation and sale of food and beverages selected by patrons seated at a table or counter, served by a waiter or waitress and consumed on the premises. The term "restaurant" does not include a business whose principal operation is as a bar, cabaret, carry-out restaurant, delicatessen or fast-food restaurant. No drive-up car service shall be permitted. Car service shall be permitted by special use permit only.

[Added 1-22-1996 by L.L. No. 1-1996, effective 1-31-1996; amended 2-25-2008 by L.L. No. 3-2008, effective 3-4-2008]

**RESTAURANT, BREWPUB**

An establishment primarily engaged in the sale and service of food for on-premises consumption which also brews beer for on-site consumption and may lawfully sell beer for off-premises consumption in accordance with the New York State Alcoholic Beverage Control Law and the applicable regulations of the New York State Liquor Authority, not more than 30% of the total gross floor area of the commercial space of which is used for brewing, bottling and kegging.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

**RESTAURANT, CARRY-OUT**

A business enterprise primarily engaged in the retail sale of food or beverages, which may include grocery items, for consumption off the premises, but which also includes the incidental sale of ready-to-consume food and beverages from a counter-type installation for consumption on the premises, provided that the area devoted to customer seating is clearly accessory to the main business and complies with the area requirements of the New York State Uniform Fire Prevention and Building Code. No drive-up or car service shall be permitted.

[Added 1-22-1996 by L.L. No. 1-1996, effective 1-31-1996; amended 2-25-2008 by L.L. No. 3-2008, effective 3-4-2008]

**RESTAURANT, FAST-FOOD**

A business enterprise primarily engaged in the sale of food and beverages generally served in disposable or prepackaged containers or wrappers ready for consumption in a facility where most or all of the sales to the public are stand-up services. The term "fast-

food restaurant" shall not include a carry-out restaurant or delicatessen. No drive-up or car service shall be permitted. Where a fast-food restaurant contains multiple counters, each serving one or more brands or types of fast food (for example, one counter for pizza and another for hamburgers), parking requirements shall be increased by 10% for each counter in excess of one.

[Added 1-22-1996 by L.L. No. 1-1996, effective 1-31-1996; amended 2-25-2008 by L.L. No. 3-2008, effective 3-4-2008]

**SCHOOL, PRIVATE**

A kindergarten, primary or secondary school furnishing a comprehensive curriculum of academic instruction similar to that of a public school.

**SCHOOL, PUBLIC**

An educational institution operated by a public school district under the laws of the State of New York.

**SITE**

Same as "lot" as defined herein.

**STORY**

Portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below, it shall be deemed to be a "story." A basement shall be deemed to be a "story," but a cellar shall not be deemed to be a "story." An attic shall not be deemed to be a "story" if unfinished and without human occupancy.

**STORY, HALF**

Any space partially within the roof framing where the clear height of not more than 50% of such space between the top of the floor beams and the structural ceiling level is seven feet six inches or more.

**STREET**

A way which is an existing state, county, town or Village highway or a way shown upon a subdivision plat approved by the Village Planning Board as provided by law or on a plat duly filed and recorded in the office of the County Clerk.

**STREET LINE**

The dividing line between a lot and a street.

**STRUCTURE**

Anything constructed, erected or installed the use of which requires location on or under the ground level, in whole or in part, or attachment to something having location on or under the ground. Depending upon its applicability, the use herein of "structure" shall include the term "building."

[Amended 9-11-1972, effective 9-27-1972]

**TASTING ROOM**

An establishment or portion of a manufacturing establishment that allows customers to taste samples of beer, wine or liquor, must serve food, and may include the sale of such products in addition to related items, marketing events, and special events, in accordance with the New York State Alcoholic Beverage Control Law and the applicable regulations of the New York State Liquor Authority, and other applicable state, county and Village laws and regulations.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

**TIERS**

Buildable levels or stories.

[Added 5-13-1985 by L.L. No. 12-1985, effective 5-22-1985]

**TRAILER**

Any vehicle which is or can be mounted on wheels, movable either by its own power or by being drawn by another vehicle and equipped to be used for living or sleeping quarters or so as to permit cooking. The term "trailer" shall include such vehicles if mounted on temporary or permanent foundations with the wheels removed.

#### **USABLE OPEN SPACE**

Active recreation, sitting or landscaped areas open to the sky. Parking shall not be considered "usable open space." On any lot containing more than 15 dwelling units, the design, layout and equipment of such open space shall be subject to Planning Board approval. Rooftop and atrium spaces that are open to all of the residents of the building may account for up to 10% of the open space requirements if the Planning Board finds that they provide "usable open space." For purposes of open space calculations, an "atrium" is defined as a continuous area open to a sidewalk and street which is open and unobstructed, except for sitting and landscaped areas, to a height of at least 25 feet and whose roof and wall configuration allows natural sunlight as the main light source.

[Amended 5-13-1985 by L.L. No. 12-1985, effective 5-22-1985; 5-13-1985 by L.L. No. 13-1985, effective 5-22-1985]

#### **USE, ACCESSORY**

A use of land or of a building or portion thereof which is customarily incidental and subordinate to the principal use of the land or building located on the same lot with such principal use. An accessory use may not be accessory to another accessory use.

[Amended 2-10-1997 by L.L. No. 1-1997; effective 2-20-1997]

#### **VEGETATION**

Any and all plants or plant life with trunks or stems exceeding six inches in diameter and three feet in height, as measured from the ground.

[Added 2-8-1988 by L.L. No. 4-1988, effective 2-19-1988]

#### **VILLAGE BOARD**

The duly constituted Board of Trustees of the Village of Mamaroneck.

#### **VILLAGE LAW**

Chapter 64 of the Consolidated Laws of the State of New York.

#### **WATERBODY**

Any natural or artificial pond, lake, embayment, reservoir, or other area which usually or intermittently contains water and which has a discernible shoreline.

#### **WATERCOURSE**

Any natural or artificial, permanent or intermittent, public or private waterbody or water segment, such as ponds, lakes, reservoirs, rivers, streams, brooks, estuaries, bays, harbors, waterways and the like that is contained within, flows through or borders on the Village.

#### **WATER-DEPENDENT USES**

Facilities for hauling, launching, dry storage and dry sailing of boats; facilities for building, repairing and maintaining boats, marine engines and other marine equipment up to 150 tons; and recreation facilities which depend on access to coastal waters (e.g., beach and/or yacht clubs).

[Added 5-13-1985 by L.L. No. 12-1985, effective 5-22-1985]

#### **WINE**

The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, or other fruits or plants, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed 24% by volume.

[Added 10-10-2017 by L.L. No. 13-2017, effective 12-29-2017]

**YARD**

An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from ground upward, except as may be specifically authorized in this chapter. In measuring a "yard," as hereinafter provided, the "line of a building" shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the line of the building, as defined herein, to the nearest lot line.

**YARD, FRONT**

A space on the same lot with the building between the nearest front line of the building and the front line of the lot and extending the full width of the lot.

[Amended 6-18-1973, effective 6-27-1973]

**YARD, REAR**

A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

**YARD, SIDE**

A yard between the side line of the lot and nearest line of the building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front or rear lot line, as the case may be.

[1]

*Editor's Note: The definition of "club," which immediately followed this definition, as amended, was repealed 5-8-2006 by L.L. No. 6-2006, effective 5-19-2006*

[2]

*Editor's Note: See now § 390, Subdivision 1(e), of the Social Services Law.*

[3]

*Editor's Note: See now § 390, Subdivision 1(d), of the Social Services Law.*

[4]

*Editor's Note: See now § 390, Subdivision 2, of the Social Services Law.*