

ARTICLE VI DEFINITIONS

Section 601 Word Definitions

The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word shall is mandatory, the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used plot or parcel.

Section 602 Term Definitions

Accessory Structure & Use - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.

Apartment - A portion of a building used as a dwelling unit. (See definition of a dwelling unit.)

Atmospheric Pollution - Discharging from stacks, chimneys, exhausts, vents, ducts, opening, buildings, structures, premises, open fires, portable boilers, vehicles, processes, or any source, of any smoke, soot, fly ash, dust cinders, dirt, noxious or obnoxious acids, fumes, oxides, gasses, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid, or gaseous matter, or any other materials in such place, manner or concentration as to cause injury, detriment, nuisance, or annoyance to the public, or to endanger the health, comfort, repose, safety or welfare of the public, or in such a manner as to cause or have a natural tendency to cause injury or damage to business or property.

Auto Body Shop - A structure used for the painting and refurbishing of motor vehicles.

Auto Service Station - Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles. A service station is not a sales, major repair or rental agency for autos, trucks or trailers.

Building - Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

Building Height - Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

Campground - A parcel of land designated and specifically designed for temporary, seasonal, and/or transient occupancy of two or more tents, travel trailers, campers, motor homes, or similar self contained mobile units designed to provide temporary shelter.

Cemetery - A parcel of land designated and specifically designed for human burial.

Cemetery - Pet - A parcel of land designated and designed specifically for animal burial.

Child Care Center - Building, or portion thereof, used for purposes of providing day care services for seven or more children which is not a "group family day care home" or "family day care home" within the meaning of Section 390 of the Social Services Law.

Clinic - A facility for diagnosis and treatment of outpatients and/or a facility where one or more physicians work cooperatively, without performing any type of surgery.

Cluster Development - A development which has the same overall density as permitted by the minimum lot size requirement of this zoning ordinance, but where individual lots may be reduced in size and/or where minimum lot dimensions and minimum yard requirements may be reduced.

Disposal - A material which is discharged, deposited, injected, dumped, spilled, leaked, burned, incinerated, or placed into any or on any land or water, so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

Drive-In Restaurant or Refreshment Stand - Any place or premise used for selling, dispensing or serving food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling, Mobile Home - A structure transportable in one or more sections, which, in the traveling mode, is eight 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 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 herein. Mobile homes shall be constructed in accordance with regulations set forth in the Code of Federal Regulations (CFR), Title 24, Housing and Urban Development, Chapter XX, Office of Assistant Secretary for Housing - Federal Housing Commission, Department of Housing and Urban Development, Part 3280, Manufactured Mobile Home Construction and Safety Standards, as amended. Every Mobile home shall have a manufacturer's label which certifies that, to the best of the manufacturer's knowledge and belief, this home is in compliance with all applicable Federal construction and safety standards. Every Mobile home shall bear a date plate, affixed in the manufacturing facility, bearing not less than the following information: (a) The statement: "This mobile home is designed to comply with the Federal mobile home construction and safety standards in force at the time of manufacture." (b) Reference to the structural zone and wind zone for which the home is designed. Every mobile home shall bear data relative to the heating and insulation zone and outdoor design temperature.

Dwelling, Mobile Home - Single Wide - A mobile home built or constructed as a single unit, having four finished exterior walls, at least one of which is less than twenty feet in length.

Dwelling, Mobile Home - Double Wide - A mobile home built or constructed in more than one section which when fully assembled on site has exterior walls, no one of which is less than twenty feet in length.

Dwelling, Modular Home - A factory built structure that is manufactured or constructed as a place for human habitation certified as meeting the New York State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

Dwelling, Single Family - A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only. It shall include prefabricated and modular units.

Dwelling, Two Family - A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

Dwelling, Multi-Family - A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling Unit - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking (whether permanent or temporary) and sleeping facilities.

Essential Services - The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection therewith, and including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

Factory Built Housing - Any structure, designed for long-term residential use, that is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this ordinance, factory-built housing shall consist of modular homes, mobile homes, and manufactured homes.

Family - One or more persons occupying a single dwelling unit, provided that unless all members are legally related, no such family shall contain over five persons, but further provided that domestic servants and farm workers employed on the premises may be housed on the premises without being counted as a family or families.

Farm - Any parcel of land at least ten acres in size which is used for gainful intent in raising of agricultural products, horticultural products, livestock, poultry, or dairy products, provided that agriculture is the principal use of the property. This definitions does not include dog kennels.

Gross Leasable Area - The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any: expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

Hobby - Pursuit outside one's occupation, not used as a second employment or business enterprise.

Home Occupation - Accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to a dwelling used for living purposes and does not change the character thereof.

Hospital - A facility or institution engaged principally in providing services by or under the supervision of a physician or in the case of a dental clinic or dental dispensary, of a dentist for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health care center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, but the term "hospital" shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability.

Junk Yard - Land or building used for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material, or for the collecting, wrecking, dismantling, storage, salvaging and sale of machinery parts or vehicles not in running condition. (This definition includes all junk yards as regulated by Town Law Number 1, 1990 of the Town of Peru.)

Loading Space - Off-street space which is at least twelve feet wide and forty feet long, not including access driveway, and having direct access to a street or alley, which is used for the temporary location of one licensed motor vehicle.

Lodging House - A building in which the rooms are rented with or without meals to three (3) or more persons. A boarding house or a rooming house, or a furnished room or a bed and breakfast shall be deemed a lodging house.

Lot - A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incident to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street and may consist of:

- A. A single lot of record
- B. A portion of a lot of record
- C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record
- D. A parcel of land described by metes and bounds

Provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

Lot Measurements - Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard: however, that width between lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of culs-de-sac, where the 80 percent requirement shall not apply.

Lot of Record - A lot which is part of a subdivision recorded in the office of the Clinton County Clerk, of a lot or parcel described by metes and bounds, the description of which has been so recorded.

Manufactured Home - A factory-built structure that is manufactured or constructed under the authority of a 42 United States Code Sec. 5401, as amended, and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved or other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home, except as hereinafter provided.

Marina - Any waterfront facility which provides accommodation services for vessels by engaging in any of the following:

- A. The sale, lease, rental or charter of vessels of any type or;
- B. Storage, wharf space or mooring for vessels not registered to the owner of said facility, members of the owner's immediate family, or overnight guests on said property.

Membership Club - Building or property used primarily for catering to club members and their guests for recreational purposes, and not used primarily for profit.

Motel - Building containing rooms which are rented as a series or sleeping units for automobile transients, each sleeping unit consisting of at least a bedroom and bathroom. This shall include hotel.

Motor Vehicle Sales & Repair Facility - A structure or business for the display, sales, and repair of new or used motor vehicles, trailers, travel trailers, motorcycles tractors, boats, farm vehicles, all terrain vehicles or snowmobiles.

Neighborhood Commercial Facility - Any commercial facility such as a grocery, general, newspaper or drug store or retail service establishment intended principally to serve the neighborhood in which it is located.

Non-Profit Recreation Facility - A land use or buildings owned and operated by a non-profit organization such as a church, YWCA or civic organization mainly devoted to providing recreational facilities without profit.

Office - Place where the business of a commercial, industrial, service or professional organization is transacted.

Off Lot Water & Sewer - The providing of water from a source and the disposal of the sewage not located on the lot or adjoining lots on which is located the building for which these utilities are provided. Further provided that each of these systems shall be designed so as to provide service to ten or more independent users.

On Lot Water & Sewer - The providing of water from a source such as a drilled well and the disposal of the sewage by such means as septic tank and drainage field located on the same or adjacent lot as the building of which these utilities are located.

Parking Space - Off Street - For the purpose of this ordinance, an off-street parking space shall consist of space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated to be 300 square feet, but off-street requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the town.

Personal Services - Including barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

Public Facility - Usage by agencies and departments of town, county, state and federal governments.

Restaurant - Eating and drinking establishment providing for the sale and consumption of food and alcoholic beverages by the public on the premises.

Seasonal Camp - Any land, including any building thereon, used for any assembly of persons for what is commonly known as "camp" purposes, whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals, families, or groups, and occupied not more than six months per year.

Setback - That area or plot of ground free of any structure (except fencing*) as measured from the exterior boundaries of the parcel to where the main or accessory building is located, not including any public road.

Sign - Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following not be included in the application of the regulations herein:

A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises, not having commercial connotations;

B. Flags and insignia of any government except when displayed in connection with commercial promotion;

C. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;

D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;

E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;

F. Political or elective office campaign signs whose display is temporary in nature and which are removed within 24 hours after an election or campaign.

*Amended 8/23/99

Signs, Numbers and Surface Area - For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area.

Sign, On-Site - A sign relating in its subject matter to the premises on which it is located, or to product, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry on the conduct of the outdoor advertising business.

Sign, Off-Site - A sign other than an on-site sign.

Solid Waste - All putrescible and non-putrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles, and offal.

Store - Neighborhood Convenience - Small retail store serving nearby residential areas with less than 5000 square feet in floor area, including but not limited to foods, goods, meats, beverages and personal items. This definition does not include automobile repair shops, automobile service stations, or gasoline sales, any storage, or taverns or any establishments serving alcoholic beverages.

Store - Retail - A place of business offering for a fee goods and merchandise to the general public, and where the providing of services is clearly incidental to the sale of such goods or merchandise. Specifically excluded from this definition is restaurants.

Street Frontage - Lot lines which abut a public street.

Street Line - That part of a thoroughfare dedicated by deed to the Town with established widths outlined. Where a street width is not indicated the street line shall be thirty-three feet from the center line of the street pavement.

Structure - Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, swimming pools, mobile homes, walls, fences, and billboards.*

Structure - Non-Complying - Structure not complying with the Zoning Regulations for the district in which it is located, where such structure complied with all applicable laws and regulations prior to enactment of these Regulations.

Swimming Pool - Any body of water or receptacle for water, having a capability or depth of 24** inches or more at any point, used, intended to be used, or designed to be used for swimming, bathing or wading and installed either above or below ground level.

Trailer - Any vehicle or device used or so constructed as to permit its being used as conveyance on the public streets and highways whether licensed or not, and does not permit occupancy as a dwelling or sleeping place, but allows for the transporting of articles or goods. Includes utility, snowmobile, boat, all terrain vehicle and semi-trailers.

*Revised 3/16/98

**Amended 8/23/99

Trailer - Travel - Travel Trailer shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways whether licensed or not and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons, and not designed to be used as a principal place of abode. A trailer under this local law shall also mean tent trailers, truck campers, vehicles converted to sleeping facilities other than a mobile home and/or what normally constitutes a permanent dwelling unit. This definition includes uses to which trailers might be put.

Truck Stop, Truck Terminal - Any facility providing fuel, repair services, dining facilities, or overnight accommodations intended for servicing trucks and truckers.

Use - The specific purpose for which land, a building or structure is used, designed, arranged, intended, or occupied.

Use - Non-Conforming - Use of land or structure which does not comply with all Zoning Regulations for the district in which it is located, where such use conformed to all applicable laws and regulations prior to enactment of these Regulations.

Uses - Residential - Includes all dwelling definitions.

Uses - Non-Residential - All uses of buildings, structures or land, except those defined as dwellings of any type.

Use - Special Permitted - A use which is deemed desirable for the public welfare within a given district or districts, but which is potentially incompatible with other uses permitted therein. A special permitted use shall therefore be subject to a case-by-case approval and to the conditions set forth in section 207.5 of this ordinance.

Use - Special Permitted - Temporary - A non-extendable Special Permitted Use granted for a period of six months while the applicant conforms to the required conditions of a Special Permitted Use, where a Special Permitted Use is allowable.

Variance - The relaxation or varying of the terms of the zoning ordinance where such variance will not be contrary to the public interest, and where owing to conditions peculiar to the property and not the result of any action of the applicant or the landowner, a literal enforcement of the ordinance would result in, amongst other things as specified in state law, unnecessary and undue hardship. As used in this ordinance, a variance is issued for reason of height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district. Variances, once granted by the Zoning Board of Appeals, run with the land and property and do not cease to exist as a result of a change of ownership or occupancy.

Variance, Area - 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 this Zoning Ordinance.

Variance, Use - Authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this Zoning Ordinance.

Vehicle Storage Facility - A structure used for the storage of any new or used motor vehicles, boats, all terrain vehicles or trailers.

Warehouse - A structure or business used primarily for, or designated or intended primarily for, the storage, receiving or shipment of goods and materials. Includes warehouse, wholesale establishment, discount house, bulk storage and bulk sales outlet.

Waste Disposal Area - Any area used for the disposal of solid waste. (See definitions of solid waste and disposal).

Yard - An open space on the same lot with a structure or building, that is occupied and not obstructed from the ground upward except as may be provided in this ordinance. Porches, whether enclosed or open, shall be considered a part of the main building and shall not project into a required yard.

Yard, Front - Yard between the front lot line and the front line of the building or structure (as extended). The depth of the front yard shall be measured from the boundary of the road right-of-way closest to the lot to the front line of the building or structure.

Yard, Rear - Yard between the rear lot line and the rear line of a building (as extended). The depth of the rear yard shall be measured from the rear lot line to the nearest point of the principal building or structure.

Yard, Side - Area or plot of ground as measured from the lot line boundaries, not including any road or accessory building to the nearest point of the principal building or structure.

ADULT USE A public or private establishment or any part thereof, which presents any of the following entertainments, exhibitions, or services: topless and/or bottomless dancers, strippers, topless waitressing, busing or service; topless hair care or massage, service or entertainment where servers or entertainers wear pasties, G-strings or both; adult arcade, adult bookstore or video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios and sexual encounters center, and any other similar business operated in a similar manner.

ADULT ARCADE Any place to which the public is permitted or invited wherein coin-operated or slug-projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe “specified sexual activities” or “specified anatomical areas”.

ADULT BOOKSTORE A bookstore which, as one of its principal business purposes, offers the sale of publications (including books, magazines, and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”; or has as a preponderance of its publications books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”.

ADULT CABARET/CLUB A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes; persons who appear nude or semi-nude; or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or films, motion pictures, video cassettes, slides, or other photographic reproductions which depict “specified sexual activities” or “specific anatomical areas”.

ADULT LIVE ENTERTAINMENT Any performance of or involving the actual presence of real people which exhibits “specified sexual activities” or “specified anatomical areas”.

ADULT LIVE ENTERTAINMENT BUSINESSES Any establishment or business wherein adult live entertainment is shown for observation by patrons.

ADULT MOTEL OR HOTEL A motel, hotel, or similar commercial establishment that; offers accommodations to the public for any form of consideration or allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than four (4) hours.

ADULT MOTION PICTURE THEATER An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

ADULT THEATER A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits, or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict “specified anatomical areas” or ‘specified sexual activities”.

ADULT VIDEO STORE A commercial establishment which as one of its principal business purposes offers for sale or rent for any form of consideration any one or more of the following; video cassettes, video reproductions, photographs, films, motion pictures, slides, or other visual representations that depict or describe “specified sexual activities” or “specified anatomical areas” or instruments, devices or paraphernalia that are designed for use in connection with “specified sexual activities”.

ESCORT AGENCY A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration. An escort means a person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person; or, for consideration but without a license granted by the State of New York, agrees or offers to provide a massage for another person.

NUDE MODEL STUDIO Any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration.

SEXUAL ENCOUNTER CENTER A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration, physical contact between persons when one or more of the persons are in a state of nudity or semi-nude.

SPECIFIED ANATOMICAL AREAS Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genital in a discernible turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES Human genitals in a state of sexual stimulation or arousal; or acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region or breasts.