

**§ 280-347. Rules of construction of language.**

- 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 an individual, firm, company, partnership or corporation.
- D. The words "shall" or "will" are mandatory; the word "may" is permissive.
- E. The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."
- F. Any reference to an "R District" shall be interpreted to mean "R-A, R-E, R-1, R-2, R-3, R-4 and NC Districts."
- G. Any reference to a "C District" shall be interpreted to mean "C-1, C-2, LC, and HC Districts."

**[Amended 1-26-1998 by L.L. No. 1-1998]**

- H. Any reference to an "M District" shall be interpreted to mean "M-1, M-2 and M-3LI and GI Districts."
- I. Any reference to a "mixed use district" shall be interpreted to mean "PUD and MU-1 Districts."

**§ 280-348. Definitions.** **[Amended 1-26-1998 by L.L. No. 1-1998; 2-22-1999 by L.L. No. 3-1999; 4-10-2000 by L.L. No. 2-2000; 4-22-2002 by L.L. No. 4-2002; 6-25-2007 by L.L. No. 3-2007; 8-9-2010 by L.L. No. 6-2010; 12-13-2010 by L.L. No. 10-2010; 11-14-2011 by L.L. No. 11-2011; 11-28-2011 by L.L. No. 14-2011; 1-14-2013 by L.L. No. 1-2013; 12-18-2017 by L.L. No. 3-2018; 10-21-2019 by L.L. No. 10-2019; 12-16-2024 by L.L. No. 14-2024]**

For the purposes of this chapter, certain terms or words used herein shall be interpreted or defined as follows:

**ACCESSORY BUILDING OR STRUCTURE** — A building or structure, the use of which is incidental to that of the main building and which is located on the same premises.

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building, except as otherwise provided for off-street parking.

**ALTERATION** — Any change in, rearrangement of, addition to or relocation of a building or structure, or any modification in construction or equipment.

**ANIMAL HOSPITAL** — The premises or buildings used for the diagnosis, treatment or other care of the ailments of domesticated, household animals, which may include related facilities such as laboratories, offices and temporary quarters for such animals.

**ARTIFICIAL INTELLIGENCE (AI) DATA CENTER** — a facility specifically designed to house the infrastructure needed for training, deploying, and delivering AI applications and services. It includes advanced computing, network, and storage architectures, as well as power and cooling capabilities tailored to the demands of AI workloads.

**BED-AND-BREAKFAST** — See "tourist home."

**BUILDING** — A combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property. The word "building" shall be construed, when used herein, as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

**BUILDING HEIGHT** — The 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.

**BUILDING INSPECTOR** — The officer(s) designated by the Town of Hamburg and charged with the enforcement of zoning, building and fire prevention codes.

**BUILDING LINE** — See "setback."

**CLUSTER HOUSING** — A residential subdivision, designed for single-family dwelling purposes, comprising 10 or more acres, in which minimum lot areas and minimum lot dimensions may be reduced by a specific amount, provided that land not used for residential lots, except streets, in the subdivision is used for recreational or open space purposes. The phrase "clustering" shall refer to "cluster housing."

**COMMERCIAL WIND ENERGY CONVERSION SYSTEM (WECS)** — A wind energy conversion system consisting of one wind turbine, one tower, and associated control or conversion electronics, which has a rated capacity greater than 250 kilowatts, and a total height of more than 150 feet, and is intended to solely supply electrical power into a power grid for sale.

**CONDOMINIUM** — An apartment house or houses, the apartments or dwelling units of which are individually owned, each owner receiving a deed enabling him to sell, mortgage or exchange his apartment independent of the owners of the owner apartments in the building or buildings.

**CRAFT (FARM) BREWERY** — Any place or premises, located on a farm (land used in agricultural production), as defined by New York State Agriculture and Markets Law Article 25-AA, in which New-York-State-labeled beer is manufactured, stored and sold in quantities of up to 60,000 finished barrels of beer annually.

**CRAFT WINERY** — A small-scale winery meeting the definition of a microwinery or a farm winery under New York State law, and meeting the requirements under the Town's Zoning Code.

**CRYPTOCURRENCY MINING FACILITY** — a large-scale operation that uses specialized hardware to verify and record cryptocurrency transactions on a blockchain. These facilities are designed to handle a high volume of computation, requiring substantial infrastructure for space, cooling, and electricity.

**DAY-CARE CENTER OR NURSERY SCHOOL** — A place, person, association, corporation, institution or agency licensed by the State of New York providing care for three or more children for at least three hours, but less than 24 hours, away from their homes and in which parents, guardians or others responsible for care place children. This does not include care provided in an after-school program operated for the primary purpose of religious education.

**DOG KENNEL** — The keeping of more than two dogs that are more than three months old.

**DRIVE-IN RESTAURANT** — A restaurant wherein all patrons thereof are not required to be seated to be served.

**DWELLING** — A building used as the living quarters for one or more families.

A. **DWELLING UNIT** — One or more rooms designed for occupancy by one family for cooking, living and sleeping purposes.

- B. SINGLE-FAMILY DWELLING — A building containing one dwelling unit and designed or used exclusively for occupancy by one family.
- C. TWO-FAMILY DWELLING — A building containing two dwelling units and designed or used exclusively for occupancy by two families living independently of each other, or two one-family dwellings having a party wall in common.
- D. MULTIFAMILY DWELLING — A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.

**DWELLING GROUP** — A group of two or more dwellings located on the same lot and having any yard or open space in common.

**ENLARGEMENT** — An increase in floor area of an existing building, or an increase in the size of an existing structure, or an increase in the area of land used for an existing open use.

**EXTENSION** — An increase in the amount of existing floor area used for an existing use in an existing building.

**FAMILY** — One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this chapter as an accessory use.

**FILLING STATION** — Any area of land, including structures thereon, used for the retail sale of gasoline or other motor vehicle fuel for the propulsion of vehicles. A "filling station" can be either self-service or attendant-operated.

**FOREST FARMING** — The management of a stand of forest on a sustained-yield basis, which includes replanting as well as harvesting.

**GARAGE, PRIVATE** — An accessory building or portion of a main building used for the storage of self-propelled vehicles, including one commercial vehicle having a rated capacity of not more than 3/4 ton, used by the occupants of the premises, and may include space for not more than one passenger vehicle used by others.

**GARDEN CENTER** — A retail establishment that primarily stores, displays, sells plants and/or other agricultural/horticultural/landscaping-related products.

**GASOLINE STATION** — Any area of land, including structures thereon, that is used for the sale of gasoline, other motor vehicle fuel, oil or other lubricating substances and motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof or the storage of vehicles for any purpose other than servicing with fuel, lubricants, antifreeze, tire repair and other emergency repairs of a temporary nature.

**GROSS LEASABLE AREA** — The enclosed building area of a shopping center, exclusive of all common areas such as enclosed pedestrian walks, walkways, hallways, public restrooms, open-area garden facilities, maintenance rooms, utility rooms and other areas of a like and similar nature.

**HOTEL** — A building containing sleeping rooms in which lodging is provided primarily for transient guests for compensation, and which may include public dining facilities.

**JUNKYARD** — A place where junk, waste and discarded or salvaged materials are bought, sold, exchanged, sorted, stored, baled, packed, disassembled, handled or abandoned, but not including pawn shops, antique shops, establishments for the sale, purchase or storage of used furniture, household equipment, clothing, used motor vehicles capable of being registered or machinery to

be reused for the purpose for which originally manufactured.

**KENNEL, BOARDING** — The temporary storage for pay of domestic pets. Domestic pet breeding is permitted. Specifically excluded are pets and animals that may be pets but are normally considered wild.

**KENNEL, DOG** — The keeping of more than two dogs over three months old.

**LOT** — A parcel or plot of land occupied or capable of being occupied by a principal building or use, or a group of principal buildings or uses that are united by a common interest or customary accessory buildings or uses, and including such open spaces to be used in connection with such buildings or uses.

**LOT, CORNER** — A lot at the junction of and fronting on two or more intersecting streets.

**LOT COVERAGE** — The amount of the lot covered by imperious surfaces, including but not limited to buildings, driveways, accessory structures, parking lots, etc. It is the intent that these areas not covered will remain in their natural state or are to be landscaped.

**LOT DEPTH** — The mean horizontal distance between the front and rear lot lines.

**LOT, INTERIOR** — A lot other than a corner lot.

**LOT LINE** — The property line bounding a lot. Where any property line parallels a street and is not coincident with the street line, the street line shall be construed as the property line for the purpose of complying with the area and setback regulations of this chapter.

**LOT LINE, FRONT** — Where a lot abuts upon only one street, the street line shall be the "front lot line." Where a lot abuts upon more than one street, the assessment roll of the Town of Hamburg shall determine the "front lot line."

**LOT LINE, REAR** — Any lot line which is opposite and more or less parallel with the front lot line. In the case of a lot which comes to a point at the rear, the "rear lot line" shall be an imaginary line 10 feet in length, entirely within the lot, parallel to and most distant from the front lot line.

**LOT LINE, SIDE** — Any lot line which is not a front lot line or a rear lot line.

**LOT, THROUGH** — A lot in which the front lot line and the rear lot line abut a street.

**LOT WIDTH** — The least horizontal distance across the lot between side lot lines, measured at the front of a main building erected or to be erected on such a lot or at a distance from the front lot line equal to the required depth of the front yard.

**MOBILE HOME** — As defined pursuant to L.L. No. 7 of 1973, Chapter 165 of the Code of the Town of Hamburg, entitled "Mobile Home Parks."

**MOBILE HOME COURT** — As defined pursuant to L.L. No. 7 of 1973, Chapter 165 of the Code of the Town of Hamburg, entitled "Mobile Home Parks."

**MOTEL** — A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing accessory off-street parking facilities. The term "motel" includes buildings designated as "motor lodges," "auto courts" and similar appellations.

**NONCOMMERCIAL WIND ENERGY CONVERSION SYSTEM** — A wind energy conversion system consisting of one wind turbine, one tower, and associated control or conversion electronics, which has a rated capacity of not more than 250 kilowatts and a total height of not more than 150 feet, and is intended to solely supply electrical power for use on the subject property.

**NONCONFORMING** — Any lawful building or structure or any lawful use of land, premises, building or structure which does not conform to the regulations of this chapter for the district in which such building, structure or use is located either at the effective date of this chapter or as a result of subsequent amendments thereto.

**NURSERY SCHOOL** — See "day-care center."

**NURSING OR CONVALESCENT HOME** — Any building where persons are housed or lodged and furnished with meals and nursing care for hire.

**OPEN SPACE** — The unoccupied area open to the sky on the same lot with a principal building or structure and/or any accessory building, exclusive of parking areas or driveways. "Open space" also refers to a parcel or parcels of land or an area of water, or a combination of land and water, within a site with any or all of such features as common outdoor recreation areas, woodland areas, parks, playfields, playgrounds, golf courses, tennis courts, skiing facilities, nature trails, formal gardens, lakes and swimming pools, camping facilities, unoccupied areas in a natural state and similar open areas, exclusive of streets and parking areas.

**PATIO HOME** — A single-family detached home of one story in height, located on its own lot that is typically smaller in size (meeting the zoning requirements of the Town), with common areas in the development owned by a homeowner's association. Patio homes are allowed anywhere single-family detached units are allowed, as long as they meet the zoning requirements of the town and the particular district they are located in.

**PETS** — Animals normally considered domestic pets, such as dogs and cats. Other animals that are being treated as "pets," such as farm animals and exotic pets that are normally considered as wild, are limited to the R-A District unless otherwise approved by the Zoning Board of Appeals.

**RESEARCH AND DEVELOPMENT** — comprises establishments primarily engaged in conducting research and experimental development (except nanotechnology and biotechnology research) in the physical, engineering, and life sciences, including but not limited to agriculture, electronics, environmental, biology, botany, computers, chemistry, food, fisheries, forests, geology, health, mathematics, medicine, oceanography, pharmacy, physics, veterinary and other allied subjects.

**PRIVATE RENTAL STORAGE** (also known as "public mini storage," "self-service storage facility") — A building or group of buildings in a controlled access or fenced compound, consisting of individual, self-contained units or stalls for the storage of customers' (businesses, individuals, etc.) goods, wares, or contractor supplies for a rental fee. These facilities can have supervised or unsupervised access to the rental units.

**QUARRY, SANDPIT GRAVEL PIT, TOPSOIL STRIPPING** — A parcel of land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which a building permit has been issued by the Township of Hamburg.

**REPAIR** — The replacement or renewal, excluding additions, of any part of a building, structure, device or equipment, with like or similar materials or parts, for the purpose of maintaining such building, structure, device or equipment.

**REPAIR GARAGE** — Any garage other than a private garage, and which is used for the storage, repair, rental, greasing, washing, lubrication, servicing, adjusting or equipping of automobiles or other motor vehicles.

**RESERVOIR SPACE** — A temporary storage space for a vehicle waiting for service or admission.

**RESORT COMPLEX** — A lodging facility, primarily for transient guests for compensation, that provides access to or offers ancillary amenities and accommodations which may include but is not limited to a minimum of two or more of a restaurant and/or lounge or bar area, business center with access to internet connectivity and common area office equipment, conference rooms, swimming pool, fitness center or similar amenities that would be consistent with industry standards as additional benefits for the patrons of such lodging facilities.

**SCHOOL** — A public, parochial or private school.

**SETBACK (BUILDING LINE)** — The minimum horizontal distance from any existing or proposed building or structure to the nearest point in an indicated lot line or street line.

**SHOPPING CENTER** — The division of a single structure or grouping of structures (some of which may be in separate ownership) which constitute a convenient, planned and harmonious shopping and entertainment place with shared customer and employee parking areas.

- A. **LOCAL SHOPPING CENTER** — A shopping center with a gross leasable area of less than 100,000 square feet.
- B. **COMMUNITY SHOPPING CENTER** — A shopping center with a gross leasable area of more than 100,000 square feet but less than 400,000 square feet.
- C. **REGIONAL SHOPPING CENTER** — A shopping center with a gross leasable area of more than 400,000 square feet.

**SIGN** — Any structure or part thereof, or any device attached to, painted on or represented on a building or other structure, upon which is displayed or included any letter, word, model, banner, flag, pennant, insignia, decoration, device or representation used as or which is in the nature of an announcement, direction, advertisement or other attention-directing device. A sign shall not include a similar structure or device located within a building, except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant or insignia of any nation or association of nations, or of any state, city or other political unit, or of any political, charitable, educational, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

- A. **ADVERTISING SIGN** — A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot on which the sign is located.
- B. **FLASHING SIGN** — Any moving or animated sign or any illuminated sign on which the 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.
- C. **ILLUMINATED SIGN** — Any sign designed to give forth any artificial light, or designed to reflect light from one or more sources.

**SPORTSMAN AND GUN CLUBS** — Institutions whereby members and/or guests enjoy said sport without any permanent occupancy of premises.

**STORY** — That portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between any floor and the ceiling next above it. A basement shall be counted as a story for purposes of height measurement if the ceiling is more than five feet above the average adjoining ground level or if used for business or dwelling

purposes. A "half story" is a story under a sloping roof, having a ceiling height of seven feet or more for an area not exceeding 1/2 the floor area of the next lower full story in the building.

**STREET** — A public right-of-way for vehicular and pedestrian circulation, which has been dedicated, improved and accepted.

**STREET LINE** — A line separating a lot from a street. In any case where a future street line has been established or approved by the Town Board, such future street line shall be considered as a street line for the purposes of determining lot area and setback requirements.

**STRUCTURAL ALTERATION** — Any change in the supporting members of a building or other structure, such as bearing walls, columns, beams or girders.

**STRUCTURE** — Anything constructed or erected which requires permanent location in or on the ground or attachment to something having such location, but not including a trailer or mobile home.

**STUDIO APARTMENT** — A small apartment (approximately 350 to 500 square feet) consisting of one main living space, a small kitchen and a bathroom.

**TEMPORARY STRUCTURE** — An assembly of materials, forming a construction of component structural parts for occupancy exceeding 15 persons or such other uses, having a fixed location in or on the ground or attachment to something having such location but not including a trailer or mobile home for less than seven consecutive days. A temporary structure shall not be erected for a period of 90 consecutive calendar days thereafter, beyond the expiration of the initial seven-day period.

**TOTAL HEIGHT (also MAXIMUM OVERALL HEIGHT)** — The height of the wind energy conversion system measured from the ground elevation to the top of the tip of the blade in the vertical position.

**TOURISM FACILITY** — Refers to the infrastructure, services, and amenities specifically designed to create an environment and destination that promotes entertainment attractions or opportunities and enhances the experiences of tourists and travelers.

**TOURIST HOME** — A private, owner-occupied residential dwelling in which overnight accommodations are provided or offered for tourist and transient guests for compensation, with or without the inclusion of one meal. This use is subordinate and incidental to the main residential use of the dwelling. This definition includes uses/services such as Airbnb.

**TOWER** — The support structure, including guyed, monopole, and lattice types, upon which a wind turbine and other mechanical devices are mounted.

**TOWER HEIGHT** — The height above grade of the uppermost fixed portion of the tower, excluding the length of any axial rotating turbine blades.

**TOWING AND RECOVERY IMPOUNDMENT AREA** — Any off-street parking area or facility that provides secure parking for vehicles stored in connection with the roadside services carried out by a towing and recovery company.

**TOWNHOUSE** — A building or dwelling designed for or occupied by no more than one family and attached to other similar buildings or dwellings by not more than two common walls extending from the foundation to the roof and providing two direct means of access from the outside. A townhouse is individually owned, an owner receiving a deed enabling him to sell, mortgage or exchange his dwelling unit independent of the owners of any other dwelling unit attached thereto by a common wall.

**TRAILER** — A vehicle, other than a mobile home, used as sleeping or living quarters, whether self-propelled or towed, or a camper body mounted on a motor vehicle. A trailer shall also include any vehicle towed or used for carrying goods, equipment, machinery or recreation vehicles or as a site office.

**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.

**WILDLIFE RESERVATIONS** — Areas, including conservation areas, set aside to protect and encourage native species of birds and wildlife.

**WIND ENERGY CONVERSION SYSTEMS** — One or more mechanical devices which are designed and used to convert wind energy into a form of electric energy.

**WIND ENERGY FACILITY** — Any wind energy conversion system, wind measurement tower, or wind energy system, including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

**WIND MEASUREMENT TOWER** — A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

**WIND TURBINE** — Any piece of electrical generating equipment that converts wind energy into electrical energy through the use of airfoils, rotating turbine blades, or similar devices to capture the wind.

**YARD** — That portion of a lot extending open and unobstructed from the ground upward along a lot line.

**YARD, FRONT** — A yard extending the full length of the front lot line between side lot lines. The front yard depth of a lot located on a curve shall be measured from the cord connecting the arc of the front lot line.

**YARD, FRONT, EQUIVALENT** — That portion of a rear yard of a through lot extending along a street line and from the street line for a depth equal to a required front yard. Any front yard equivalent shall be subject to the regulations of this chapter which apply to front yards.

**YARD, REAR** — On an interior lot, a yard extending for the full length of the rear lot line between side lot lines. On a corner lot, a yard extending along a rear lot line between an interior side line and a side yard which abuts a street.

**YARD, REQUIRED** — A yard having a depth or width set forth in the applicable district regulations. Such width or depth shall be measured perpendicular to lot lines.

**YARD, SIDE** — A yard extending along a side lot line from the required front yard to the required rear yard, except that, on a corner lot where the side lot line abuts a street, the side yard shall extend from the required front yard to the rear lot line.

A. **EXTERIOR SIDE YARD** — A side yard extending along a street line.

B. **INTERIOR SIDE YARD** — A side yard extending along a lot line of an adjoining lot.

**ZONING MAP** — A composite of 71 sectional maps, including all areas of the Town of Hamburg, plus a single index map which locates each of said sectional maps in the Town. The index map also indicates the legend of the zoning districts, by description and symbol, used on said sectional maps. Each of said 71 sectional maps is at a scale of one-inch equals 200 feet. Affixed to each sectional map is a stamp which identifies said map as a section of the Zoning Map of the Town of Hamburg and indicates the number of said map to correspond with its number and location as

shown on the index map. Each of said sectional maps includes, in whole or in part, area in the Town of Hamburg outside any incorporated village. Any zoning district described on said sectional maps is described by district boundary lines and by appropriate district symbols as indicated in the aforesaid legend on the index map.