

CHAPTER 1131

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

1131.01 Construction of Language

1131.02 Definitions

1131.01 CONSTRUCTION OF LANGUAGE:

For the purpose of this Zoning Code, certain terms or words used herein shall be interpreted as follows:

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, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed" or "arranged to be used or occupied", the word "building" includes the word "structure", and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Zoning Code and any caption or illustration, the text shall control.

Terms not herein defined shall have the meaning customarily assigned to them.

1131.02 DEFINITIONS:

- (1) "Accessory use or building" means a use or building on the same lot with, and of a nature customarily incident and subordinate, to those of the main use or building.
- (2) "Alley" means any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.
- (3) "Alterations" means any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."
- (4) "Apartment" means a suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit as herein defined.
- (5) "Apartment Hotel" means a building designed for or containing both dwelling units and individual guest rooms or suites of rooms, which building may include accessory uses such as cigar store, coffee shop, etc. when such uses are accessible only from the lobby.
- (6) "Appeals Board" means the Planning and Zoning Board of Appeals of the Village.
- (7) "Auto Service Station" means a place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises, including the sale of minor accessories and the servicing of and minor repair of automobiles.

- (8) "Auto repair station" means a place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and undercoating of automobiles.
- (9) "Basement" means that portion of a building, which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, except as provided in subsection (74) hereof.
- (10) "Block" means the property abutting one side of a street and lying between the two nearest intersection streets (crossing or terminating), or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development or corporate lines of the Municipality.
- (11) "Boarding house" (rooming house) means a building other than a hotel, where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three or more persons, but not exceeding ten sleeping rooms. A rooming house or furnished rooming house shall be deemed a boarding house for the purposes of this Zoning Code.
- (12) "Building" means any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.
- (13) "Building height" means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.
- (14) "Building Line" means a line formed by the face of the building, and for the purposes of this Zoning Code, a building line is the same as a setback line.
- (15) "Clinic" means an establishment where human patients who are not lodged over-night are admitted for examination and treatment by a group of physicians, dentists or similar professions.
- (16) "Club" means an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit.
- (17) "Conditional use permit" means a permit issued by the Appeals Board to allow certain specific developments that would not otherwise be allowed in that particular zoning district where the land is located. These permits are issued only after the applicant has followed the procedures as stated in this Zoning Code. Development under a conditional use permit differs from a zoning change in that it is much more specific. The applicant submits plans and, if approved, he must follow those plans exactly or really for a permit before deviating from that plan.
- (18) (a) "Conditional use" means a use permitted only after review of an application by the Appeals Board, such review being necessary because the provisions of this Zoning Code covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by the Zoning Code.

(b) "Variance" means a modification of the literal provisions of the Zoning Code granted when strict enforcement of the Zoning Code would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

The conditional use differs from the variance in several respects. A conditional use does not require undue hardship in order to be allowable. The conditional uses that are found in this Zoning Code appear as special approval or review by the Planning Board, the legislative body or Appeals Board. These land uses could not be logically allocated to one zone or another or the affects of such uses could not be definitely foreseen as of a given time.

(19) "Convalescent home" or "nursing home" means an establishment, which specializes in providing necessary services to those unable to care for themselves.

(20) "District" means a portion of the incorporated area of the Municipality within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Zoning Code.

(21) "Drive-in" means a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, or within a building or structure on the same premises and devoted to the same purpose as the drive-in service.

(22) "Dwelling unit" means a building, or a portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.

(23) "Dwelling, one-family" means a building designed exclusively for and occupied exclusively by one family.

(24) "Dwelling, two-family" means a building designed exclusively for occupancy by two families living independently of each other.

(25) "Dwelling, multi-family" means a building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

(26) "Erected" includes built, constructed, altered, reconstructed, moved upon or any physical operations on the premises, which are required for the construction. Excavation, fill, drainage and the like shall be considered a part of erection.

(27) "Essential services" means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

(28) "Excavation" means any breaking of ground except common household gardening and ground care.

(29) "Family" means one or two person or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof) together with not more than tow person not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every group of two or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this Zoning Code.

(30) "Farm" means all of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees. However, land to be considered a farm hereunder shall include a continuous parcel of five acres or more in area, and, provided further, that farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms and apiaries; but establishments keeping or operating fur-bearing animals riding or boarding stable, commercial dog kennels, stone quarries or gravel or sandpits, shall not be considered as farms hereunder unless combined with bona fide farm operations on the same continuous tract of land not less than twenty acres. No farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto and for the use and consumption by persons residing on the premises.

(31) "Fence" means any enclosing structure, other than part of a building, off sufficient strength and dimensions to prevent straying from or intrusion from without.

(32) "Filling" means the depositing or dumping of any matter onto, or into the ground, except common household gardening and ground care.

(33) "Floor Area", for the purpose of computing the minimum allowable floor area in a residential dwelling unit, means the sum of the horizontal areas of each story of the building measured from the interior faces or the exterior walls. The finished attics, attached garages, breezeways, and enclosed and unenclosed porches, except basement areas designed and used for dwelling or business purposes do not constitute floor area as defined herein.

(34) "Floor area", for the purpose of computing parking, means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, such as hallways, stairways and elevator shafts, or for utilities or sanitary facilities, shall be excluded from this computation of floor area. Measurements of usable floor area shall be the sum or the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

(35) "Floor area gross," means the sum of the gross horizontal areas of all the several floors of a building or buildings, including interior balconies and mezzanines. All horizontal measurements are to be made between the exterior faces of walls including the walls of roofed porches having more than one wall. The gross floor area of a building shall include the floor area of accessory buildings, on the same lot, measured the same way.

(36) "Garage, parking" means space or structure or series of structures for the temporary storage or parking of motor vehicles, not primarily of commercial vehicles or for dead storage of vehicles, have no public shop or service in connection therewith, other than for the supplying of motor fuels and lubricants, air, water and other operating commodities wholly within the

buildings to the patrons of the garage only and not readily visible from or advertise for sale on the exterior of the building.

(37) "Garage, private" means an accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned or used by the occupants of the building to which it is accessory.

(38) "Garage, service" means any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repair or kept for remuneration, hire or sale.

(39) "Grade" (ground level) means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the aboveground level shall be measured at the sidewalk, unless otherwise defined herein.

(40) "Home Occupation" means any occupation operated in its entirety within the principal dwelling and only by the person or persons maintaining a dwelling therein; not having a separate entrance from outside the building; not involving alteration or construction not customarily found in a dwelling; not utilizing more than twenty-five (25%) of the total floor area of any one story; not utilizing any equipment except that which is used normally for purely domestic or household purposes; not displaying, or crating outside the structure any external evidence of the operation of the home occupation except for one unanimated, nonilluminated name plate having an area of not more than one square foot.

(41) "Hospital" or "sanitarium" means a public or semipublic facility that provides accommodations and continuous service for the sick and injured including obstetrical, medical and surgical care.

(42) "Hotel" means a building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals in which there are ten or more sleeping rooms and no provision made for cooking in any individual room or apartment. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms

(43) "Junk yards"(salvage yards) means an open area where waste, used or second-hand materials are bough and sold, exchanged, stored, baled packaged, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A junk yard includes automobile wrecking yards and includes any area of more than 100 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. Two or more inoperative or unlicensed vehicles shall be construed to be a junkyard.

(44) "Kennel" means any lot or premises used for the sale, boarding or breeding of dogs, cats or other household pets. Kennel also means the keeping on, or in, any lot or building of three or more dogs, cats or other household pets which are over the age of six months.

(45) "Loading space" means an off-street space on the same lot with a building or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

(46) "Lot" means a parcel of land occupied or to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this Zoning Code.

Every lot shall abut upon and have permanent access to a public street and have a minimum frontage of forty feet thereon.

- (47) "Lot area" means the total horizontal area within the lot lines of the lot.
- (48) "Lot, corner:" means a lot which has at least two contiguous sides abutting upon a street for its full length.
- (49) "Lot, through" means any interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of such lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.
- (50) "Lot coverage" means the part or percent of the lot occupied by buildings including accessory buildings.
- (51) "Lot lines" means the lines bounding a lot as defined below.
- (52) "Front lot line", means in the case of an interior lot, means that line separating such lot from the street. In the case of a corner lot or double frontage lot, the front lot line means that line separating such lot from either street.
- (53) "Rear lot line" means that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot. In the case of a corner lot, the rear lot line is opposite the front lot line of least dimension.
- (54) "Side lot line" means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- (55) "Lot width" means the horizontal distance between the side lot lines, measured at the two points where the building line or setback line intersects the side lot lines.
- (56) "Lot of record" means a parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by City or County officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.
- (57) "Main building" means a building in which is conducted the principal use of the lot upon which it is situated.
- (58) "Main use" means the principal use to which the premises are devoted and the principal purpose for which the premises exist.
- (59) "Major thoroughfare" means an arterial street which is intended to serve as a large volume traffic way for both the immediate City area and in the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan. Any street with a width, existing or proposed, of eighty feet shall be considered a major thoroughfare.

- (60) "Mezzanine" means an intermediate floor in any story occupying not more than two-thirds of the floor area of such story.
- (61) "Motel" means a series of attached, semidetached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle. It may include all facilities specified under the definition of "Hotel" in subsection (42) hereof.
- (62) "Nonconforming building" means a building or portion thereof, lawfully existing at the effective date of this Zoning Code, or amendments thereto and that does not conform to the provisions of the Zoning Code in the district where it is located.
- (63) "Nonconforming use" means a use which lawfully occupied a building or land at the effective date of this Zoning Code, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.
- (64) (a) "Nursery"(plant material) means a space including an accessory building or structure for the growing or storage of live trees, shrubs or plant materials not offered for retail sale on the premises, including products used for gardening or landscaping.
- (b) "Nursery" (retail) means a space including an accessory building or structure, or combination thereof, for the storage of live trees shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping
- (65) "Off-street parking lot" means a facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles.
- (66) "Open space" means that part of a zoning lot, including courts or yards, which are open and unobstructed from its lowest level to the sky, accessible to all tenants upon the zoning lot.
- (67) "Parking space" means a minimum area of 200 square feet, such area to be exclusive of drives, aisles or entrances giving access thereto, and which is fully accessible for the storage or parking of permitted vehicles.
- (68) "Planning Board" means the Planning and Zoning Board of the Village.
- (69) "Public utility" means any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under State or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, telephone, transportation or water.
- (70) "Sign" means a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which directs attention to an object, product, place, activity, person, institution, organization or business.
- (71) "Sign, ground" means a sign which is supported by one or more poles, uprights or braces in or upon the ground, which are not a part of the building.
- (72) "Sign, wall" means a sign which is supported by one or more poles, uprights or braces in or upon the ground, which are not a part of the building.

(73) "Story" means that part of a building, except a mezzanine as defined in subsection (60) hereof, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a basement is more than six feet above grade, such basement shall be considered a story.

(74) "Story, half" means an uppermost story lying under a sloping roof have an area of at least 200 square feet with a clear height of seven feet six inches. For the purposes of this Zoning Code the useable floor area is only that area having at least four feet clear height between floor and ceiling.

(75) "Street" means a public thoroughfare, which affords the principal means of access to abutting property.

(76) "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

(77) "Temporary use or building" means a use or building permitted by the Planning and Zoning Appeals Board to exist during periods of construction of the main building or use, or for special events.

(78) "Tent" means any structure used for living or sleeping purposes, or for sheltering a public gathering, constructed wholly or in part from canvas, tarpaulin or other similar materials and includes shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings and all similar meetings or exhibitions in temporary structures.

(79) (a) "Trailer" (mobile home) means any vehicle designed, used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling for one or more persons.

(b) "Trailer" (recreation vehicle) means and includes travel trailers, campers, camp cars, truck campers, boats and boat trailers.

(80) "Trailer court" (mobile home park) means any plot of ground upon which two or more trailer coaches or mobile homes occupied for dwelling or sleeping purposes are located.

(81) "Use" means the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

(82) "Yards" means the open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Zoning Code, and as defined herein:

(a) "Front yard" means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. There shall be a front yard on each street side of a corner. No accessory building shall project beyond the front yard line on either street.

(b) "Rear yard" means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard shall be opposite the narrow street frontage.



(c) "Side yard" means an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

(83) "Zoning Code" means the Zoning Code for the Village, including any amendment thereto, being Title Three of this Part Eleven, Planning and Zoning Code.